13th August 1929]

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II

ADJOURNMENT MOTION.

Mr. T. Adinarayana Chettiyar :—" Sir, under Standing Order No. 20 I beg to move for an adjournment of the business of the House."

* The hon. the President :—" Order, order. The hon. Member has not obtained my consent. I have been frequently stating that to move an adjournment motion, obtaining the consent of the President is a condition precedent. No member will be allowed to make the motion in the House without previously obtaining the consent of the President."

Mr. T. Adinarayana Chettiyar :—" I only want to submit, Sir, that in this particular case I did not want to act upon the private information of the hon. the President given in his chamber refusing his permission. I have not got any communication to that effect. Moreover, Sir. . . . "

* The hon. the President :—" The hon. Member has applied for my consent and it has been refused. No member is justified in rising to address the Chair without the previous consent being obtained on a motion for adjournment."

III

THE MADRAS SERVICES COMMISSION BILL.

Clause 7—cont.

* The hon. the President :—" I should inform the House that yesterday when the House adjourned, Mr. Satyamurti's amendment to omit clause 7 was voted upon by the House. Now there are no other amendments to the clause. The effect of the vote of the House given yesterday was practically to retain clause 7. According to the usual practice there should be a question from the Chair that the clause shall be added to the Bill. Such a procedure will give room for the same question being repeated to the House. I have therefore come to the tentative conclusion that it is a mistake to allow an amendment to omit a particular clause as such an amendment would have the effect of a negative vote within the language of Standing Order No. 32 (2). Mr. Satyamurti's amendment was of that kind and comes within the purview of that Standing Order. Therefore, hereafter I propose not to allow such amendments. I am of course prepared to hear any hon. Member who desires to offer his remarks on the matter. In this case, however, instead of again proposing that clause 7 be added to the Bill, I take it that the effect of the negative vote that the clause should not be omitted, which the House gave yesterday is to affirm that clause 7 be added to the Bill. I do not propose therefore to put a separate question to the House."

* Mr. S. Satyamurti —" Sir, this is a motion that the Bill be taken into consideration. Under the Standing Orders, the President is empowered to put the Bill clause by clause to the House. Therefore, it should be clear that the motion that a particular clause be passed by the House has not come before it. The hon. the Revenue Member's motion is that the Bill be taken into consideration. Once that motion is made, the whole Bill is before the House. For the sake of concentrating discussion in the House, you are to put clause by clause of the Bill to the House. My submission is that an amendment to omit a clause is not negative in form but is a positive amendment to this extent, namely, that the Bill be taken into consideration except

[Mr. S. Satyamurti] [13th August 1929

this clause. It is not as if we are opposing the motion that the Bill be taken into consideration. We are in favour of it, and the question is being put by the Chair in order to enable the House to deal with the subjects point by point, so that there may be no confusion."

* The hon. the PRESIDENT :—" The real difficulty is when in accordance with the procedure laid down in Standing Order No. 48, the question that this clause, or as the case may be that the clause as amended, shall stand part of the Bill is again put to the House, after the amendment to omit it which the House considered and voted upon yesterday has been decided, it will come within the purview of Standing Order No. 32 (2)."

* Mr. S. SATYAMURTI :—" I should like to submit, Sir, that the words 'shall call each clause separately' in Standing Order No. 48 do not imply as if there is a motion before the House."

* The hon. the PRESIDENT :—" Under that Standing Order the question in the present case which I have to put to the House is that this clause shall form part of the Bill. And I hold that it offends the rule against repetition."

* Mr. S. SATYAMURTI :—" That may be, Sir. But I may be permitted to submit that I am tempted to agree with you, if I may say so, with regard to the question of repetition. But on the question whether you should put the question that this clause shall stand part of the Bill to the House, I submit that the negative vote of the House in rejecting the amendment for the deletion of the clause may not amount, according to the Standing Order, to a positive motion on which the House should be called upon to vote, that this clause do stand part of the Bill. That has again to be put to the House, and the House has got to vote upon it. While it may be open to question whether amendments for deletion of a clause offend the rule against an amendment being accepted so as to mean the negative of a proposition, I submit that so far as the positive motion required by the Standing Order that this clause shall stand part of the Bill is concerned, it has to be put to the House for its affirmative vote."

* The hon. the PRESIDENT :—" After careful consideration, I have come to this conclusion that if an amendment to omit a clause is allowed it may give room to a possibility of the same question being put twice, once in a negative form and again in a positive way. To avoid that contingency, hereafter I shall follow the principle that no amendment to omit a clause shall be allowed to be moved."

* Mr. S. SATYAMURTI :—" Instead, you will permit such members as would move an amendment for the deletion of a clause to oppose the clause."

* The hon. the PRESIDENT :—" Yes. On the substantial question that the clause shall stand part of the Bill, hon. Members will be allowed to oppose the motion."

* Mr. SAMI VENKATACHALAM CHETTI :—" Since that amendment has rightly or wrongly been allowed, may I know whether you are now putting the clause for a positive vote to the House again?"

* The hon. the PRESIDENT :—" That amendment has really come by mistake and it is I daresay the concern of hon. Members as well as of the Chair that the same question is not put twice to the House. If I put the question now, it will offend the rule against repetition. Even practically speaking, there is no chance of the House deciding differently and as it is a mere question of technicality, I think it will be more graceful not to press

that it shall be put to vote. If any hon. Member of the Opposition wishes that it shall be put to vote, I have not got any objection to put it in this particular case for the present."

Mr. SAMI VENKATACHALAM CHETTI :—" It is not in the hope that we may be able to snatch a victory over what was done last evening that I press this matter. But so long as one mistake has been allowed, it seems to me, till we put an end to that mistake, that it is better to continue the old system. It is in that view that I submit that this may be put to vote."

* The hon. the PRESIDENT :—" The question is

' *That clause 7 shall stand part of the Bill*'."

The motion was carried and the clause was added to the Bill.

Clause 8.

* The hon. the PRESIDENT :—" Amendment No. 25 in the list reads as follows :—

' *For* the existing clause *substitute* the following :

" *The Local Government shall take the advice of the Commission on every question connected with recruitment to any Provincial or Subordinate service or special post and shall act in accordance with such advice.*" '

" There is the next amendment standing in the name of Mr. Ramasomayajulu which is more comprehensive. And under the power of selection vested in me by Standing Order No. 32 (6), I allow Mr. Ramasomayajulu to move his amendment first."

* The hon. Mr. A. Y. G. CAMPBELL :—" On a point of order, Sir. I do not know whether this is the time to ascertain whether the amendment will be in order. If this is the right time, may I be permitted to state that the amendment suggests that the Local Government shall consult the Commission and shall act in accordance with the advice given by the Commission. I wish to ask for your ruling, Sir, as to whether that part of the amendment which says that the Local Government shall act in accordance with the advice given by the Commission is in order with reference to the Delegation Rule No. 5, issued by the Secretary of State." 11-30 a.m.

* The hon. the PRESIDENT :—" In order to shorten the disposal of the question, I may say that the amendment as it stands does not impose it as an obligation on the Government, but the effect of it will be that the Government will ordinarily have to accept the recommendations of the Commission, and that in any case where they do not they will have to record their reasons in writing. The liberty of the Government to act as they like is reserved by the amendment as it stands. It is not an absolute direction to the Government to do a particular thing. Even supposing there was not this Bill, under the statutory provision which enables the legislature to make laws for the good government of the province the legislature may say that in all cases where the Government make appointments they should assign reasons for making such appointments That comes under the general legislative power vested in the Council regarding good governance. If the hon. the Revenue Member wants to say anything on that I shall be very glad to hear."

The hon. Mr. A. Y. G. Campbell did not press his point of order.

[13th August 1929

Mr. C. RAMASOMAYAJULU :—" I move, Sir, for the deletion of the existing clause 8 and the substitution in its place of the following clause :

> ' *The Local Government shall consult the Commission on every question in connexion with the recruitment to any provincial or subordinate service or special post and shall act in accordance with the advice given by the Commission, provided that Local Government may, for reasons to be recorded in writing, act in variance with such advice.*'

" The existing clause, Sir, merely says that the Commission shall advise the Local Government on any question which the Local Government may refer to it in connexion with the recruitment to any provincial or subordinate service or special post. But the object of the present clause is to give a mandate to the Commission that they shall advise the Local Government under particular circumstances, that is to say, if the Local Government happens to refer to it any question connected with the recruitment to any provincial or subordinate service or special post; that is, in case the Local Government chooses to ask for the advice of the Commission, the Commission shall advise. My point is this. The existing clause is defective in many ways. It is not self-contained; it lays down no obligation; it does not contain what is generally called the sanction behind it. That is to say, there is no security that the Government would call upon the Commission to give its advice in any such matter. And there is no security that the Local Government would act in accordance with such advice. And for the matter of that, even the amendment which I propose is a matter of compromise. As a matter of absolute propriety I would not have been justified in proposing the amendment to the effect that the Local Government shall consult the Commission on every question in this connexion and shall act in accordance with the advice given by the Commission. But, Sir, in view of the fact that the Local Government have got certain powers and in view of the statutory limitations an instance of which has just now been witnessed here in the shape of the objection raised by the hon. the Revenue Member on the ultra vires character of this amendment, I was led to take this salutary attitude of adding the last clause ' provided that the Local Government may, for reasons to be recorded in writing, act in variance with such advice '. Thereby I thought that I would not be offending the constitution and I would be granting to the Government that margin which is absolutely necessary as we stand at present under the present constitution. The clause which I want to put in place of the existing clause contains three important divisions. " The first portion deals with the obligation on the part of the Government to consult the Commission on every matter that may be referred to it. Without such an obligation, this Commission, if appointed, may be rendered an effete body which may not be called upon to function at all, because if it is left to the absolute discretion of the Government to call for or consult the Commission or not, to ask for its advice or not, it may be rendered absolutely effete. And after all, this Commission consisting of persons drawing high salaries would go on without functioning, for they cannot function without the order of the Local Government. We do not propose to leave the matter in such a hopeless situation. I may refer, Sir, to the sentiments expressed by the hon. the then Revenue Member in his speech introducing this Bill. In that speech it was claimed for this Commission that it would be an absolutely independent body independent of the Government and also independent of the political parties in the country and it was with

that view that the Bill was being introduced. This, we were given to understand by Sir Norman Marjoribanks, was the object of the Bill, and if that idea is to be perpetuated and enforced to its logical extent, it is absolutely necessary that the Act must make it obligatory for the Local Government to consult the Commission.

"Then, Sir, the second clause in my amendment says that the Government 'shall act in accordance with the advice given by the Commission'. What this clause says is that it shall ordinarily be the rule that Government should act in accordance with the advice given by the Commission. Now, with reference to this also may I take the House back to what the hon. Sir Norman Marjoribanks stated in that speech of his referred to by me. He stated that according to the strength of public opinion and the strength of conventions the Government would act on the recommendations of the Commission. I may point out, Sir, this strength of public opinion and this strength of conventions are the only sanctions mentioned in his speech that would bring about the enforcement of this provision that the Government should act in accordance with the advice given by the Public Services Commission; and these securities or sanctions mentioned in his speech must find a place in the statute. Situated as we are to-day, seeing in what way the Government has been functioning for the last so many years and considering the credentials of the present Executive Government we are warranted in demanding that such a sanction ought to be embodied in the statute itself and ought not to be left to the Government or to the strength of what is called public opinion or convention. I do not know whether after all this Government has got any such convention. It may be that such convention is there, but the Government is at liberty to speak or act against it. Therefore it is absolutely necessary that the second clause ought to be there.

"Then, Sir, the third clause in my amendment is this: 'provided that the Local Government may, for reasons to be recorded in writing, act in variance with such advice.' I was prompted to add this last clause, as I already mentioned to the house, from two considerations. One is this. It may be that in spite of whatever we may say, situated as the present Government is under the present constitution, the Government has to act in contravention of such advice. I hope that such instances may be very rare and will seldom happen, where the Government would have to act in contravention of the advice given by the Commission. To provide for such extreme cases which I hope would not occur at all in practical working, and with a view to make provision for such extreme instances, I added this clause. There is, further, the constitutional difficulty also as you put it just now. It is not intended by this clause to take away the powers of the Government to make appointments ultimately. Therefore, Sir, as the hon. the Revenue Member wanted to make out, it is not within the powers of this House to take away the power of appointment altogether according to the present constitution. The ultimate effect of my clause is this. We retain the ultimate power of appointment in the hands of the Government itself. But we only say that, as there are resolutions tabled before this house by means of which this House would be justified in calling upon the Government to state why such and such a course of action was taken by them; so also, this particular clause simply lays down the procedure to be observed in the matter of making these appointments. The power of making these appointments is, even under this clause, vested in the Government. This clause, I submit, Sir, is a very salutary provision.

[Mr. C. Ramasomayajulu] [13th August 1929

It is just possible that the Commission may be rendered an absolutely non-functioning body, and therefore it is absolutely necessary that this amendment should be carried."

* Mr. K. V. R. Swami :—" Sir, I second this motion. There is nothing in common between the original clause and the proposed alteration. The original clause says, ' The Commission shall advise the Local Government on any question which the Local Government may refer to it in connexion with the recruitment to any provincial or subordinate service or special post '. It is left to the sweet will of the Government under this clause to refer matters to the Commission or not, whereas the amendment makes it obligatory on the part of the Government to refer to this Commission every case where an appointment is sought to be made. The amendment says ' The Local Government shall consult the Commission on every question in connexion with the recruitment to any provincial or subordinate service or special post.' That is, it makes it obligatory on the Government in every case to consult the Public Services Commission. If it is not made obligatory, the Government may think it not necessary at all to consult this body, and go on making their appointments just as they like. It is conceded that the Government have got the absolute right to make appointments. Now what is sought in this Bill is to give the Government an advisory body which cannot go into questions of these appointments minutely and advise the Government with regard to these appointments. It is left to the Government to act in accordance with the advice given by the Commission or not. But this amendment makes it obligatory on the Government to consult the Commission. They say that there is no necessity in every case to refer to this Commission. The Government is clever enough, expert enough, and has got the wisdom to oppose this motion. But we say, why do you want this costly Commission at all if you do not want to consult them, and take the advice of the Commission ? So it should be made obligatory on the part of the Government to refer every matter to the Commission. The second clause says that the Government should accept the advice given by the Commission. You remember, Sir, that the Government have got the right to frame rules. They can frame general rules and make it obligatory on the Commission to make their suggestions or give advice in accordance with those rules. For instance, there is the Government Order which lays down in what proportion and in what order each community is to be given appointments and so on. The Commission should observe those rules in giving advice, but when that advice is given it is in the power of the Government not to listen to those views at all. So this amendment says that the Government shall appoint the persons nominated or recommended by the Commission. Suppose the Government does not ; what the clause seeks is to make it obligatory on the Government to give reasons why the appointment is not made in accordance with the Commission's advice. This provision is very good for the Government and also for us, because in some cases the Government may have very cogent reasons for not accepting the advice given by the Commission. In such a case they will have to state what their objections are, and choose their own men as they like. To put it shortly, it gives the Government an opportunity to explain their conduct in refusing to act on the advice of the Commission, and so this clause is very useful, and I hope the hon. the Revenue Member will accept it because it does not in any way come in the way of the Government at all. They can go on as merrily as before, but only they have to explain their conduct in cases where they differ from the Commission. For these reasons I second this motion."

13th August 1929]

* Mr. H. F. P. HEARSON :—" Mr. President, Sir, I beg to move the amendment standing in my name in respect of the amendment which was just now moved, and that is— 11-45 a.m

' *In line 3, to omit all the words beginning from " and shall ".*'

" Mr. President, there seems to be three possible kinds of pressure that might be put on the Government. The original Bill says, ' the Government may consult ' ; my amendment is that ' the Government shall consult ' ; and the amendment moved already is ' the Government shall consult and act on such advice.' The first object of this Bill is to set up an expert body who will manage the recruitment of services. The second point is that it should free the Government from the embarrassment of making appointments. I also think that it is very necessary that the Government should not be open to the odium which they always incur in the matter of appointments and the suspicion that they are creating jobs for persons. I therefore think it desirable that there should be an automatic procedure whereby the Commission is consulted. If the advice which the Government receive in any case is not practical, it should be open to the Government to act in variance. In any case, it is necessary to provide that the Government should consult the Commission, and then the Government can say, ' we have consulted the Commission and we have followed its advice or not.'

" The second point is whether the Government should take the advice given. I think that it is not necessary. The Government have a right to make appointments, and the Commission is only an advisory body. It will not be correct if the Government should be compelled to take such advice. I think my amendment makes the clause much better."

Mr. R. J. C. ROBERTSON :—" I second it."

* The hon. the PRESIDENT :—" Only the amendment of Mr. Hearson is now for the discussion of the House."

Mr. K. R. KARANT :—" Sir, I beg to oppose this amendment. Because really by supporting the worthless half of this amendment, my hon. Friend is going to suggest the deletion of the more important latter half of this clause. Sir, for all these two or three days, we have been told by the hon. Mover of this Bill in season and out of season that the intentions of Government are to be freed from the bother of nominating persons for posts and that they should have an independent body for making recruitment. We have heard that statement more than once, and when we see the functions assigned to that body by the provisions of this Bill, we have to say that the intentions of the Government are not honest. Because, if that is so, there is no use of having an independent body which is going to be simply consulted according to the amendment of my hon. Friend and whose decisions are not going to be adhered to by the Government. I think it is very important that a body like this should be able to make its own selection in almost all cases. Any Government which does not want to interfere with the jobs must be in a position to accept its advice. Where they cannot do so, it must be for cogent reasons which they should not be ashamed or afraid of putting in writing. The very fact that the Government want to oppose the original amendment—I do not know what their attitude is towards this amendment—shows that they want a Commission to be set up merely in name. Again, under clause 7 of this Bill, which has formed part of the Bill, they also do not want that the action of this body should come before this House. That is their second intention. Thirdly, they want to make the

appointments as freely as they like without being in any way tied down by the decision of the Commission. I do not think that this clause in the Bill bears out the profession of the Government that they want to have an independent body and that they do not want to interfere in the matter of jobs every now and then. I think any government which really wants to face the public and this House should not be ashamed to record in writing where they feel it their duty to act in variance with this body. I therefore think that this amendment should be opposed and that the original amendment should stand."

* Mr. A. RANGANATHA MUDALIYAR :—"Sir, either the Commission is supposed to be useful, or is not. If it is a useful body, I think it is the bounden duty of Government to avail itself of such help as the Commission can render to it. As has been rightly remarked by the hon. Member representing the European constituency, it is no good to constitute a Commission if you are not going to consult it on matters pertaining to its jurisdiction. I go further, Sir, and ask, if you consult it, is it not also your duty to give due consideration to its recommendation? After all, the amendment proposed by Mr. Ramasomayajulu does not bind the Government to accept every recommendation made by the Commission. I do not see why the European Member should apprehend that Government will find themselves in difficulties by accepting the amendment. May I, Sir, for his benefit and for the benefit of the House, remind the council of a similar resolution in regard to the throwing open for election the office of the district board president? The rule is that every board shall be given the opportunity to elect its own president, unless for reasons to be recorded in writing, the Government think otherwise. Surely, Sir, it cannot be contended in this House that that rule has worked a catastrophe in Government circles. We know very well that, in spite of the rule, things are going on in very much the same way. So I want to tell the hon. Member representing the European constituency that he need not be under a misapprehension that the amendment, if accepted, is going to place the Government under any serious handicaps. I therefore think that Mr. Ramasomayajulu's amendment is very reasonable. It does not fetter the Government in any way. On the other hand, it gives sufficient latitude for the Government to pursue, if they feel like that, a course different from that recommended by the Commission."

* Rao Bahadur Sir A. P. PATRO :—"Sir, the clause in the Bill is based on the rules framed by the Secretary of State under section 96-C of the Government of India Act, called the Public Services Commission (Functions) Rules, of which Rule 3 is, 'The Commission shall advise the Governor-General in Council on any question connected with recruitment to an All-India Service or a Central Service, Class I, which the Governor-General in Council may refer to it.' The clause in the Bill, as it stands is, 'The Commission shall advise the Local Government on any question which the Local Government may refer to it in connexion with the recruitment to any provincial or subordinate service or special post.' The amendment that is proposed by Mr. Hearson is, 'The Local Government shall consult the Commission on every question in connexion with the recruitment to any Provincial or Subordinate service or special post.' This amendment therefore provides that on every question the Commissions should be consulted, which means that the bona fides of the Government should be proved and that the work of the Commission is considered to be really effective in the matter of recruitment. It seems necessary that there should

be such a clause as this. It will practically mean that the Commission has a real voice in the matter, and at the same time it safeguards the interests of the public by making it incumbent on the Government to consult the Commission on matters connected with recruitment of services, and it will remove all grounds for suspicion that the Government are not acting bona fide in the matter of recruitment. We are not making rules or regulations for to-day or to-morrow. We must look to the future. Therefore, whatever may be the form of Government, whatever may be the constitution of the Government that we may have in the future, a safeguard like this would be necessary, in order to avoid any friction between the Legislature and the Executive Government. And in the interest of the smooth working of the Commission the amendment is necessary. But I have a doubt as to whether the amendment as now raised would be admitted without amending the Delegation rules."

* The hon. the PRESIDENT :—" Does the hon. Member propose to raise any point of order ? "

Rao Bahadur Sir A. P. PATRO :—" I am only referring to it, whether it should be allowed consistently with the Delegation rules."

Mr. C. V. VENKATARAMANA AYYANGAR :—" On a point of order, Sir. You have admitted it as quite consistent. I do not know if the hon. Member is in order in referring to its admissibility."

* The hon. the PRESIDENT :—" The hon. Member is developing the grounds of possible invalidity for the purpose of opposing the amendment."

Mr. C. V. VENKATARAMANA AYYANGAR :—" When the Chair has said that it is in order, can he appeal to the House ? "

* The hon. the PRESIDENT :—" He is not making a point of order to the House."

Mr. C. V. VENKATARAMANA AYYANGAR :—" Is he commenting on the ruling of the Chair ? "

* The hon. the PRESIDENT :—" I do not think so. He only says that the rules have to be amended."

* Mr. G. HARISARVOTTAMA RAO :—" As a matter of fact, he asks whether it can be allowed."

Rao Bahadur Sir A. P. PATRO :—" My hon. Friends overshoot the mark in their points of order. I want them to understand the position first before criticizing it. It seemed to me somewhat doubtful whether we could propose such a change consistent with the Delegation rules. But for the reasons given there is no doubt that an amendment of the kind is very desirable, because it will not only avoid any friction between the legislature and the executive but it will be a safeguard for all persons concerned in the matter."

* Mr. G. HARISARVOTTAMA RAO :—" Mr. President, Sir, I am really astonished, that the hon. the Floor Leader of the ' Justice ' Party should attempt to rely upon the clause that makes this body purely advisory. It is really a distinction that is drawn by him in defiance of all the statements made on the floor of this House by the hon. Member in charge. We have been told that this Public Services Commission is intended to be an independent body, dealing with appointments, recruitment, classification, discipline and all that appertains to the services.

[Mr. G. Harisarvottama Rao] [13th August 1929

12 noon. "It is intended to be an adviser to the Government in the sense in which this Government is advisory to the Governor. This Government acts and acts very powerfully and is supposed to be advising the Governor on all matters of public interest. The Government to establish its reputation for proper administration is bringing in this Bill so that they might appoint proper advisers and act up to their advice until they feel that such advice is not given in public interests or in a very correct manner. I do not feel that because there is a clause which says that this Commission shall advise, etc., it should be treated like an advisory body set up to advise either the Excise Commissioner or the Collector in matters of excise or other persons who are entitled to act in their executive capacity in matters administrative and who are entitled to take advice of bodies so set up. Therefore I am astonished that a responsible person, who is in addition the Chairman of the Simon Committee, should have felt it necessary at this stage to come forward and tell us that this is a mere toy with which we shall not play. I think it is a more serious business.

"I have always thought that, under the present conditions of the constitution, the Government were not able to give us more radical clauses. It is quite possible that the Government felt that at this stage the rules that were made by the Secretary of State and the rules that were made by the Government under delegation could not be given up and a new law could not be radically introduced without an interim arrangement for the making of appointments and things of that type. Therefore they could not include under this provision stringent clauses which would make it incumbent on the Public Services Commission to give advice compulsorily and make it incumbent upon the Government to take that advice compulsorily. But the Government are as much anxious as we in the opposition, that the good name of the Government should be preserved and the administration purified and to that end the Public Services Commission should be so constituted as to have real value and real reputation. In that case, there is nothing particularly violent in the amendments that have been moved. I shall address myself to the amendment of the hon. Member for the European Constituency. I appeal to him to examine very carefully whether there is such a great difference between his amendment and the amendment moved from these benches. Our amendment makes his amendment more clear. He says that the Government *shall* consult the Public Services Commission. Now, Sir, I do not mean to say that he has not given thought to it, but I would suggest to him whether he has considered this aspect of it. What does he intend that the Government should do after consultation? Does he intend that ordinarily the Government should override the advice given by the Commission? I am sure that in his mind he does not feel that the Government should override the advice given by the Commission. Our amendment makes that clearer and nothing else. There is nothing more in our amendment than this, that the Government shall not ordinarily override the recommendations made by the Public Services Commission. I am sure that when he said the Government shall consult, he equally meant and held that the advice of the Commission shall ordinarily be taken. Our amendment is very clear on the point. It says that the advice shall be taken by the Government, and if the Government has to differ, they have the right to differ. We make it perfectly clear that the Government may give up the advice given by the Commission and act in their own manner, but when they depart from such advice it must

13th August 1929] [Mr. G. Harisarvottama Rao]

be for some grave reasons which they must record in writing. After having set up an important body like the Commission under an independent statute, is it open to the Government to act in variance with its advice without grave reasons, those reasons being recorded in writing? So I beg of the hon. Member for the European Constituency to consider our amendment. He should not look at it with prejudice because it had come from the Opposition. We are doing all we can to make this Commission really efficient within the bounds laid down by the rules, statutes and the existing conditions. I therefore feel that the hon. Member for the European Constituency will do well to accept our amendment and to withdraw his own so that we may have the fullest benefit of our amendments, and we can have the Government coming straight and telling us that they will take the advice of the statutory body they have set up except under very exceptional circumstances. I have no doubt in my mind that this is the proper and correct attitude to take in the matter. I appeal to the hon. Members of this House to support our amendment, and to the hon. Member for the European Constituency to withdraw his."

* Mr. S. SATYAMURTI :—" Mr. President, Sir, I should like with your permission to refer to the amendment No. 25 on the order paper when speaking on this amendment. It seems to me that if this Commission is to function at all with that usefulness with which hon. Members belonging to every section of the House have expressed themselves anxious that it should serve, the wording of amendment No 25 will make that purpose easily achievable. But as regards amendment No. 26, may I say respectfully that the speeches of my hon. Friend the Member for the European group and the Member representing Ganjam really support amendment No. 26 as it stands on the order paper and does not support the amendment of my friend representing the European group? I think I have heard him carefully and have understood him correctly. He said that he expected that this Government should consult this Commission and therefore it is provided that the Government shall consult the Commission. And he added that if the Government did not take the advice of the Commission they would state the reasons why they did not do so. Now, Sir, amendment No. 26 on the order paper merely provides that where Government do not feel that it is right to follow the advice of the Commission they will be good enough to state their reasons in writing, so that this Council and the party may have an opportunity of judging between the Commission and the Government. May I point out to my hon. Friend, according to his amendment, which makes it obligatory on the Government to consult the Commission and the Commission to give its advice, if the advice is not taken by the Government there will be wild comments? I do not know how it is in other countries. I believe even in our country there is an Act called the Official Secrets Act. In spite of it, there is a tendency in this country for even the most secret things to come out, and I think it will be widely known that the Commission recommended in such a manner and that the Government did not take up that advice. I put it to my hon. Friend whether in case this House is going to accept the first part of the amendment making it statutorily obligatory on the Government to take the advice of the Commission it is not in the interests of the Government itself that it should have an opportunity, statutory opportunity, of stating its reasons in writing. My hon. Friend representing the European group said in a jocular manner that when we put questions to Government, unless his amendment was accepted, the Government may say: 'We did not consult

[Mr. S. Satyamurti] [13th August 1929

the Commission because we did not think it necessary to do so'. But supposing the second part of the amendment were deleted, the Government may say 'Yes, we consulted the Commission'. *Q.* 'What is the advice the Commission gave you?' *A.* 'We don't feel called upon to give out the advice.' Q. 'Why'? *A.* 'Because it is not in the public interests of the country'. And the result will be that Government will not be in a position to explain to the House whether the Commission's advice was taken or not. The unfortunate Commissioners—they are invested with high judicial powers intended to advise Government on these large intricate questions—have to give advice but their advice is ignored and yet their responsibility remains. The Government do not even take the House into confidence and say what the advice of the Commission was and why they ignored it. That is, the Commissioners will bear the responsibility for all the mistakes of the Government if they commit mistakes and the Government will be able to say 'We cannot say what advice the Commission gave'. I put it to the European group 'What are the practical difficulties in the way of the House accepting amendment No. 26 as it stands?' I appeal to the hon. Members to look at the clause as it stands and the amendment as it stands. Consultation is with regard to any question in connexion with the recruitment to any provincial or subordinate service or special post. I can understand if it is a case of *A* or *B* being appointed, the Government naturally feeling delicate that it ought not to be compelled to come to this House and say why they accepted the recommendation in the case of *A* and why they did not in the case of *B*. I fully concede that no Government ought to be expected to do it. But in this clause, as it stands, no such question will arise at all. The only question will be large questions of principle governing recruitment and such other allied matters. But with regard to these large matters, the advice of the Commission should not be so lightly ignored, without a statement of the reasons being recorded in writing as to why they differed from the Commission's recommendations.

"My hon. Friend representing Ganjam referred to the rules governing the All-India Public Services Commission. May I say one word with regard to it? That Commission is appointed under section 96 (*c*) of the Government of India Act, and section 96 (*c*) (2) says: 'The Public Service Commission shall discharge, in regard to recruitment and control of the public services in India, such functions as may be assigned thereto by rules made by the Secretary of State in Council'. It is perfectly possible for the Secretary of State to say that they ought not to make it obligatory on the Government of India to consult the All-India Public Service Commission. But here, in this case the House would be within its rights to legislate on matters of this kind and to legislate for a commission to regulate the public services. I would like to remind my hon. Friend that when I moved for an adjournment of the consideration of this Bill for a year, I stressed the point that the Commission as set out in the Bill was a truncated body and would not be able to regulate the public services in the sense the Delegation Rules contemplated. I was told by more than one hon. Member, including the Government Member, that after all, these are matters which can be secured by amending the individual clauses of the Bill, and we can give the Commission strong powers to regulate the services. I put it as a matter of English and as a matter of law to the House, that having authorized them to give advice to the Government on every question connected with recruitment

13th August 1929] [Mr. S. Satyamurti]

the Government should have the courtesy of stating their reasons in writing as to why the Commission's advice was rejected, and that is the least that we can do to make the Commission anything like a regulating body. One word more, Sir, and I have done. I take it, Sir, that the Government 12-15 p.m. are going to appoint respectable men as Commissioners, gentlemen who have views of their own, who believe in the soundness of their views and who are going to stand by them. If that is so and if the Government are going to reject their proposals, there would surely be difficulties. But the answer will probably be that the Government will so conduct themselves as not to drive the Commission to extremes. But may we not provide, knowing human nature, against any possibility of friction by saying that it shall be consulted on every question connected with recruitment and the Local Government shall at least state its reasons before it differs from the Commission's findings? Sir, even in regard to recruitment the advice of the Commission is bound to be much sounder and much more in the interests of the province than the opinion of the local Government for the time being which must depend on the votes of this House. I appeal to the House and particularly to the European group to consider the reasonableness of the amendment of the hon. Member for Cocanada to secure for the Commission that position of independence and status which will alone attract men of ability."

* Mr. F. E. James :—" Sir, the hon. Member for the University, who I am sorry to see is ill this morning, has asked us what are our practical difficulties in the way of our accepting the second part of the amendment now before the House. Our practical difficulties are these: In the first place the amendment says: 'The local Government shall consult the Commission on every question in connexion with the recruitment to any provincial or subordinate service or special post and shall act in accordance with the advice given . . .' It will be seen that it lays stress on the words 'every question'. It is not simply a broad matter of principle that is involved. 'Every question' includes every appointment. We think that this would throw on the Commission an unnecessary burden. In the second place, we feel that, as a matter of fact, it is wholly likely that if the first part of the amendment is accepted, there will be cases in which the Government may have to differ from the Commission. Why should it be made a statutory obligation on the part of the Government to set forth in writing their reasons for differing from the Commission? We are entirely opposed to that idea, because it will mean that in every case where the local Government differs from the Commission there will be an opportunity of sowing seeds of antagonism as between the local Government and the Commission. We have stated in a previous debate that we definitely wish to have opportunities for this House to review the work of the Commission. I presume that in the ordinary course of events the Commission will publish its administration report and if there had been any very serious or grave disagreement as between that body and the Government, it would be found mentioned in the report. Even if a statutory opportunity is not given to this House to discuss that report,—and I hope it will not be—surely this House can, if the matter is sufficiently grave, raise the question either by a motion for adjournment or a resolution. Therefore, we consider that it is unnecessary to have this burden thrown on the Government in this regard. We also feel that it would be very unwise to allow this House and the public at large more opportunities for sowing the seeds of antagonism than are necessary."

[13th August 1929

* The hon. Mr. A. Y. G. CAMPBELL :—"Mr. President, Sir, I propose now to speak only with reference to Mr. Hearson's amendment and I presume that I shall have another opportunity to speak with reference to the first part of the original amendment after Mr. Hearson's amendment has been disposed of.

"I would say, Sir, that we are prepared to accept, for reasons already explained by the supporters of Mr. Hearson's amendment, the amendment of Mr. Hearson. I do not think I need labour the points already discussed."

* The hon. the PRESIDENT :—"I will now put to vote the amendment of Mr. Hearson. The question is: In the amendment of Mr. Ramasomayajulu, *omit* the words 'and shall act in accordance with the advice given by the Commission, provided that the Local Government may, for reasons to be recorded in writing, act in variance with such advice.'"

The amendment was put and carried.

* The hon. the PRESIDENT :—"Now the amendment of Mr. Ramasomayajulu as amended is for the consideration of the House. It reads thus: *For* the existing clause, *substitute* the following :—

'*The Local Government shall consult the Commission on every question in connection with the recruitment to any Provincial or Subordinate service or special post.*'"

* The hon. Mr. A. Y. G. CAMPBELL :—"Mr. President, Sir, I am going to speak on this motion from two points of view. In the first place, I feel that we must oppose it on the ground already referred to by Mr. James that it gives power to the Commission to be consulted in connexion with *every* question of recruitment to any Provincial or Subordinate service or special post. It might be argued, and indeed it is true, that all questions of pay, conditions of service, pension, leave rules and so on affect recruitment, and if this amendment is carried, all such questions would have to be referred to this Commission. That seems to me to be going too far, and it is not done in any other country so far as I am aware. It seems to me therefore that we need not go as far as that. At the same time, it is the intention of the Government that this Commission should be consulted in all matters of importance to which the hon. the Member for the University referred. May I say that he has my sympathy in his indisposition and also that I appreciate his coming here in spite of illness to assist us in the consideration of this Bill?

"I would suggest in this connexion that the appropriate place for making any provision laying on the Local Government a statutory obligation to consult the Commission is the Statutory Rules framed by the Secretary of State. In Delegation Rule 3 the Secretary of State has delegated to the Local Government the power to make rules regulating the method of recruitment."

Mr. S. SATYAMURTI :—"On a point of order, Sir. May I know what my hon. Friend is reading from?"

The hon. Mr. A. Y. G. CAMPBELL :—"I am reading from the Delegation Rules which have been published."

13th August 1929]

Mr. S. SATYAMURTI :—" Sir, he is reading from a book which is not available to non-official Members."

* The hon. the PRESIDENT :—" He is quoting what was published in the Gazette."

Mr. S. SATYAMURTI :—" He is reading from a book."

* The hon. the PRESIDENT :—" He has got it in book form. However, he is only quoting from a published passage."

Mr. S. SATYAMURTI :—" May I know why in that book form it was not made available to the Members ? "

* The hon. the PRESIDENT :—" That is a different question."

The hon. Mr. A. Y. G. CAMPBELL :—" I was saying that the Local Government have been authorized to make rules regulating the method of recruitment to Provincial services, Subordinate services and special posts. Now, Sir, if this Bill is passed, even without this amendment, the Government are prepared to suggest to the Secretary of State in Council that he should amend the Delegation Rule 3 by making it obligatory on the Local Government to consult the Commission created under this Act before making or amending any of the rules which it makes under Delegation Rule 3. We also consider that there will be other cases in which it might be properly laid down by the Secretary of State that the Commission ought to be consulted. I trust, Sir, that this will meet the object which hon. Members have in view and with which I have considerable sympathy."

* Mr. C. V. VENKATARAMANA AYYANGAR :—"I am surprised Sir, that the hon. the Revenue Member who, even when he agrees with us and expresses sympathy, should suggest that we should abdicate our right and opportunity and wait for this Government applying to the Secretary of State to change the rules after consulting his Council whose members we know very well. I would submit, Sir, that both this House and the Government should certainly prefer to have this power in their own hands. We should here and now make this a statutory rule and then, if difficulties arise, the Government may come to this House with the necessary amendments. Let us suppose for argument's sake that the Secretary of State is going to agree with this Government. What happens ? He can change the rule whenever he wants. On the other hand, if this Government or the Council want to change the rule, they cannot. That being so, I do not understand why the Government should care much more for the rules framed by the Secretary of State than to our own enactment. If the Government are really in favour of the spirit of this amendment as they profess to be, what is their difficulty in accepting it ? Why do they want to wait for a long time which must elapse before the Secretary of State moves in the matter ?

" Sir, we are glad that the hon. the Revenue Member agrees with us in saying that the rules framed by the Secretary of State are defective and require change. When in the Select Committee I moved the adjournment of the Bill for three months for getting the Secretary of State to make certain rules and when in this House we wanted the adjournment of the matter for one year chiefly with that object, the Government stoutly refused as if these rules were the last word in the matter. But apart from

[Mr. C. V. Venkataramana Ayyangar] [13th August 1929

that, we are now glad that the Government consider that a change is necessary. When we ourselves have got the power of changing it there is little or no reason why we should not exercise that power and change it. I request the Government to give up their position and accept the amendment."

The amendment was put and declared lost.

12-30 p.m. A poll was demanded and the House divided thus :—

Ayes.

1. Mr. C. E. Wood.
2. ,, A. J. Leech.
3. ,, F. E. James.
4. ,, R. J. C. Robertson.
5. ,, H. F. P. Hearson.
6. ,, S. Arpudaswami Udayar.
7. ,, V. Ramjee Rao.
8. ,, P. C. Venkatapathi Raju.
9. ,, K. Koti Reddi.
10. ,, S. Satyamurti.
11. ,, C. V. Venkataramana Ayyangar.
12. ,, J. A. Saldanha.
13. ,, G. Harisarvottama Rao.
14. ,, C. S. Govindaraja Mudaliyar.
15. ,, Abdul Hameed Khan.
16. ,, L. K. Tulasiram.
17. ,, K. V. R. Swami.
18. ,, D. Narayana Raju.
19. ,, K. R. Karant.
20. ,, P. Anjaneyulu.
21. Mr. C. Obi Reddi.
22. ,, C. Ramasomayajulu.
23. ,, T. Adinarayana Chettiyar.
24. Ahmed Miran Sahib Bahadur.
25. Mr. K. Uppi Sahib.
26. ,, M. Narayana Rao.
27. ,, C. N. Muthuranga Mudaliyar.
28. ,, K. V. Krishnaswami Nayakar.
29. ,, C. Venkatrangam Nayudu.
30. ,, A. Ranganatha Mudaliyar.
31. Diwan Bahadur R. N. Arogyaswami Mudaliyar.
32. Mr. R. Nagan Gowda.
33. ,, C. R. Parthasarathi Ayyangar.
34. ,, T. C. Srinivasa Ayyangar.
35. ,, C. Gopala Menon.
36. Rao Bahadur C. S. Ratnasabapathi Mudaliyar.
37. ,, Sir A. P. Patro.

Noes.

1. The hon. Khan Bahadur Sir Muhammad Usman Sahib Bahadur.
2. ,, Sir Thomas Moir.
3. ,, Diwan Bahadur M. Krishnan Nayar.
4. ,, Mr. A. Y. G. Campbell.
5. ,, Mr. M. R. Seturatnam Ayyar.
6. ,, Mr. S. Muthiah Mudaliyar.
7. ,, Dr. P. Subbarayan.
8. Mr. Alladi Krishnaswami Ayyar.
9. ,, Hilton Brown.
10. ,, H. A. Watson.
11. ,, A. G. Leach.
12. ,, J. Gray.
13. ,, S. V. Ramamurti.
14. ,, C. B. Cotterell.
15. ,, V. Ch. John.
16. ,, M. A. Manikkavelu Nayakar.
17. Syed Tajuddin Sahib Bahadur.
18. Abdul Wahab Sahib Bahadur.
19. Mr. C. D. Appavu Chettiyar.
20. ,, H. B. Ari Gowder.
21. Mr. R. Foulkes.
22. ,, P. J. Gnanavaram Pillai.
23. Mahamud Schamnad Sahib Bahadur.
24. The Zamindar of Singampatti.
25. Mr. J. Kuppuswami.
26. Subadar-Major S. A. Nanjappah Bahadur.
27. Mr. N. Siva Raj.
28. ,, M. V. Gangadhara Siva.
29. ,, V. I. Muniswami Pillai.
30. ,, W. P. A. Soundarapandiyan.
31. ,, S. Subrahmanya Moopanar.
32. ,, S. Venkiah.
33. Rao Sahib R. Srinivasan.
34. Mr. S. N. Dorai Raja.
35. ,, G. R. Premayya.
36. Diwan Bahadur P. C. Ethirajulu Nayudu.
37. Mr P. T. Rajan.
38. Abdul Razack Sahib Bahadur.
39. Khadir Mohidin Sahib Bahadur.
40. Rao Bahadur B. Muniswami Nayudu.

Ayes 37. *Noes* 40.

The amendment was lost.

Clause 8 was put, passed and added to the Bill.

Clause 9.

* Mr. S. SATYAMURTI :—" I move that—

'*In lines 3 to 6, for the words " the Commission shall . . . prescribing ", the following words be substituted " the Local Government shall consult the Commission in regard to the regulations prescribing ".*

'*After (c), the following words be added : " and thereupon the Commission shall advise on such matters and " '.*'

* The hon. the PRESIDENT :—" Amendments Nos. 27, 28 and 29 are almost identical and I select No. 27."

* Mr. S. SATYAMURTI :—" Sir, it is not very encouraging to move amendments to this Bill and see the hon. the Member for Revenue getting up in his place and saying that he cannot accept those amendments. On the last amendment, I understood him as an ordinary man of common sense that he would accept the amendment. But the Government gathered all the forces at their command to vote against that amendment. That makes one feel sad. I think there is another fact that makes one feel sad and that is that my hon. Friend from Ganjam, the leader of the Justice Party, has supported the amendment but his party as a whole have voted against it. Sir, after all, the Council is not functioning on proper and sound party lines but the Government and the Government alone are functioning. They are able to carry out their own policy. The hon. the Revenue Member will pardon me if I have misunderstood him. My understanding was that he accepted the amendment. If what he said meant anything at all, it meant that he accepted the amendment."

The hon. Mr. A. Y. G. CAMPBELL :—" I merely said that the amendment had my sympathy and I never said that I would accept it."

* Mr. S. SATYAMURTI :—" I never said that he accepted the amendment. I merely said that I inferred from his speech that he would accept the amendment."

* The hon. the PRESIDENT :—" I do not think that such a lengthy speech by way of introduction is necessary."

* Mr. S. SATYAMURTI :—" You will sympathize with me after the result of the last voting.

" Now, Sir, taking clause 9 of the Bill as it stands it reads thus :—

" ' Where any competitive examination is to be held in India for the purpose of recruitment to any Provincial or Subordinate service or special post the Commission shall advise the Local Government in regard to the regulations prescribed.' If my amendment is accepted it will read thus : ' The Local Government shall consult the Commission in regard to the regulations, etc., etc.' It is merely a change of words. The Government ought to have no difficulty in accepting this amendment. If I have followed the hon. the Revenue Member's speech and understood him correctly he said that the acceptance of this amendment might mean that even in such small things as the appointment of particular persons to particular jobs they would have to consult the Commission, and that the Government ought not to be compelled to consult that body in such trivial matters. So far as this clause is concerned, there are specific items referred to therein, viz., the Local Government shall consult the Commission with regard to qualifications of candidates, conditions of admission to examination, and syllabus of the examination.

[Mr. S. Satyamurti] [13th August 1929

There is no question of communalism or anything in these matters, and therefore there is no question of the Government holding different views. It is experts and experts alone that can usefully advise with regard to qualifications of candidates, conditions of admission to examination and syllabus of examination.

"Sir, my second amendment is this: After '(C)' *add* the following words:—'and thereupon the Commission shall (1) advise on such matters' and *omit* the word 'and' at the end of my amendment.

"The second part of the amendment is a drafting amendment. Even according to the clause as it stands, the Commission does all this. Since I want to make it obligatory on the part of the Government to consult the Commission in all these matters, I move this amendment. I hope the hon. the Revenue Member will see the extreme reasonableness of this amendment and accept it. There is no question of requiring the Government to state reasons if they do not take advise of the Commission. It is good for the Government, and it is good for the public service of the province, that it should take advice from the Commission in regard to these expert matters. I have great pleasure in moving the amendment."

Mr. G. Harisarvottama Rao:—"I second it."

The hon. Mr. A. Y. G. Campbell:—"Mr. President, we have no objection in accepting the principle underlying this amendment. But, as I have already explained, it seems to me that any rules made by the Secretary of State should be amended only by the Secretary of State in Council when occasion arises. I have already undertaken that Government would request the Secretary of State in Council to amend the Delegation Rules. These rules would include such matters as are referred to in this section. This Bill is brought forward under Delegation Rule 5 which refers to the establishment of a Commission, and the functions to be exercised by that Commission. Therefore it would be more appropriate that in a legislative enactment or statutory provision the laying of an obligation on the Local Government is not included in the Bill but it is included in the rules framed by the Secretary of State under section 96-B-2 of the Government of India Act.

"As I said already I have undertaken to address the Secretary of State in this matter."

Mr. J. A. Saldanha:—"As to the objection raised by the hon. the Revenue Member that we are precluded from considering this amendment on the ground that it is beyond the scope of the Delegation Rule, I may point out . . ."

* The hon. the President:—"I do not think the hon. the Revenue Member said that this Council was precluded from considering any amendment. He said that in order to bring it in a line with the rules made by the Secretary of State an amendment of the Delegation Rules was necessary."

Mr. J. A. Saldanha:—"I do not think the hon. the Revenue Member is quite correct even there. This is what the Delegation Rules say:

'3 (1). Subject to the provisions of the Civil Services (Governors' Provinces) Classification Rules, and to the provisions hereinafter contained, the power to make rules regulating the method of recruitment to provincial services, subordinate services and special posts is hereby delegated to the Local Governments of Governors' Provinces.'

'5 (1). The local legislature of any Governor's Province is hereby authorized to make laws for the establishment, and for determining the functions, of a Commission to regulate the public services of the province.'

13th August 1929] [Mr. J. A. SALDANHA]

"This rule speaks of the power of the legislature to establish and determine the functions of the Commission. Is there anything to prevent this Council from making the Government consult the Commission? There is nothing. It simply defines the functions. It does not say that it cannot compel the Government to legislate. So far as the powers of this legislature are concerned, I think it has got powers to make it obligatory on the Government to consult the Commission, because the money that is to be spent on salaries, etc., is to be sanctioned by the local legislature. We have to spend money from the finances of this province. I think that the Government can surely be called upon by this Council by the inherent powers which it has got under the Government of India Act to make it obligatory on the part of the Government to consult the Commission in these matters. . ."

* The hon. the PRESIDENT :—"My view is that we have got the power to legislate. That is clear from the fact that the hon. Member has been allowed to move the amendment. There is no necessity to comment upon that point. We are proceeding on that basis." 12-45 p.m.

Mr. J. A. SALDANHA :—"I cannot understand the difficulty of the hon. the Revenue Member. If we are going to take money out of our treasury under the authority of this Bill, surely we can call upon the Government to do certain things before they spend the money of the country. This Bill is brought forward to spend large sums of money. The hon. the Revenue Member accepts the principle of this provision ; I do not see any reason why we should not pass this amendment. The hon. the Revenue Member now states that he would correspond with the Secretary of State and move for a change of the rule. I do not think that is very gracious. When the Bill was first introduced six months ago, attention was called to the defect of the rule. Surely if the Government were really actuated by good faith and some respect for this Council, they should have taken action when it was pointed out that the rule was defective. Even at the time of the Select Committee at Ootacamund, attention was drawn to this point. Even then they did not move the Secretary of State to change the rule. They say that so many dilatory motions have been moved ; even then the Government do not care for them. . ."

* The hon. the PRESIDENT :—"May I request the hon. Member to come to the merits of the amendment ?"

Mr. J. A. SALDANHA :—"Now I came to the merits. (Laughter.) In humble opinion, the scruples of the hon. the Revenue Member are not justified. . ."

* The hon. the PRESIDENT :—"As promised by the hon. Member, he has not come to the merits of the amendment."

Mr. J. A. SALDANHA :—"The hon. the Revenue Member can very well tell the Secretary of State that the former is not spending the latter's money, 'We spend money from the treasury belonging to the people and that we have been authorized by the people's representatives in the legislature to spend the money and that we should consult the Commission in these matters. . ."

* The hon. the PRESIDENT :—"I am not able to see how these remarks are relevant to the amendment under discussion."

[13th August 1929

Mr. J. A. SALDANHA :—" My submission is relevant in this way. What are the scruples of the hon. the Revenue Member ? . . . "

* The hon. the PRESIDENT :—" I requested the hon. Member to come to the merits of the amendment."

Mr. J. A. SALDANHA :—" This provision is a very innocent and modest one. What we ask is that in the matter of rules regarding examinations, etc., the Government should consult the Commission. . . ."

* The hon. the PRESIDENT :—" I am afraid that the hon. Member is not really in possession of the amendment that is under consideration. May I know the number of the amendment on which the hon. Member is speaking ? " (Laughter.)

Mr. J. A. SALDANHA :—" There are so many pages of amendments. (Laughter.) The amendment that we are now considering is ' the Local Government shall consult the Commission in regard to the regulations prescribing . . .' etc. On the merits of the question I ask whether it is derogatory to the dignity of the Government to consult the Commission. They say ' no ' to this amendment ; but they accept the principle. I said that the scruples of the Government are quite unjustifiable. I appeal to the House that as a matter of consistency, the dignity and prestige of this House we should pass this amendment. Otherwise we should throw away this Bill. What is the meaning of the Government coming to us and insulting us with this Bill ? "

* Mr. C. E. WOOD :—" Sir, I support the amendment. We must be consistent. This question hangs entirely upon the delegation powers given under Delegation Rule 3. The hon. the Revenue Member has not definitely assured us that this House has not sufficient powers under the rules to make this provision. We therefore feel that this opportunity should be taken to see that the Bill is shaped as we wish it to be. There is nothing to prevent us from doing so. If the Bill with this clause goes up to the Governor-General in Council and is sent back to us for this reason, it will then be up to the Government to delete the superfluous matter. I take it that there is no objection to the Government addressing the Secretary of State to have the provision in the Delegation Rules and make the position quite clear."

* Mr. K. KOTI REDDI :—" Mr. President, Sir, I am not able to understand the attitude of the Government in this matter. From what the Government Member said, it seems to me that the Government are quite willing that it is made obligatory on the part of the Government to consult the Commission with regard to various matters referred to in the clause. But still they seem to maintain that it would be much better if these rules are incorporated under the Delegation Rules and they say that they would address the Secretary of State for this purpose. At the same time they are not in a position to say that we have no power to legislate on this matter."

* The hon. the PRESIDENT :—" It is not stated on behalf of the Government that this Council has no power to make such a provision. They simply stated that they would take the permission of the Secretary of State to make such rules under the Delegation Rules."

Mr. K. KOTI REDDI :—" Admittedly we can legislate on this matter and admittedly the Government are not opposed to such a provision. As such, I fail to understand why the Government should take up this attitude unless their intentions are not very serious. I believe it is better that it is

13th August 1929] [Mr. K. Koti Reddi]

made obligatory on the part of the Government to consult the Public Services Commission on these matters. Otherwise the legislation that is going to be passed is a mere farce. If it is the desire of the Government to do serious business, I do not see why the Government should hesitate to accept this amendment. I hope the hon. the Revenue Member will consider the amendment twice before he rejects it."

* The hon. the PRESIDENT :—"The question is :

"*In lines 3 to 6, for the words* "*The Commission shall . . . prescribing*" *substitute the following words :—*

'*the Local Government shall consult the Commission in regard to the regulation prescribing.*'

"*After (c) add the following words :—*

'*and thereupon the Commission shall (i) advise on such matter*'."

The amendment was put and declared lost.

A poll was demanded and the House divided thus :—

Ayes.

1. Mr. C. E. Wood.
2. ,, A. J. Leech.
3. ,, F. E. James.
4. ,, R. J. C. Robertson.
5. ,, V. Ramjee Rao.
6. ,, P. C. Venkatapathi Raju.
7. ,, K. Koti Reddi.
8. ,, Sami Venkatachalam Chetti.
9. ,, S. Satyamurti.
10. ,, C. V. Venkataramana Ayyangar.
11. ,, J. A. Saldanha.
12. ,, G. Harisarvottama Rao.
13. ,, C. S. Govindaraja Mudaliyar.
14. ,, Abdul Hameed Khan Sahib.
15. ,, L. K. Tulasiram.
16. ,, K. V. R. Swami.
17. ,, D. Narayana Raju.
18. ,, K. R. Karant.
19. Mr. P. Anjaneyulu.
20. ,, C. Obi Reddi.
21. ,, C. Ramasomayajulu.
22. ,, T. Adinarayana Chettiyar.
23. Ahmed Miran Sahib Bahadur.
24. Mr. A. Kaleswara Rao.
25. ,, K. Uppi Sahib.
26. ,, M. Narayana Rao.
27. ,, C. N. Muthuranga Mudaliyar.
28. ,, K. Krishnaswami Nayakar.
29. ,, C. Venkatarangam Nayudu.
30. ,, A. Ranganatha Mudaliyar.
31. Diwan Bahadur R. N. Arogyaswami Mudaliyar.
32. Mr. R. Nagan Gowda.
33. ,, C. R. Parthasarathi Ayyangar.
34. ,, T. C. Srinivasa Ayyangar.
35. ,, C. Gopala Menon.

Noes.

1. The hon. Khan Bahadur Sir Muhammad Usman Sahib Bahadur.
2. ,, Sir Thomas Moir.
3. ,, Diwan Bahadur M. Krishnan Nayar.
4. ,, Mr. A. Y. G. Campbell.
5. ,, Mr. M. R. Seturatnam Ayyar.
6. ,, Mr. S. Muthiah Mudaliyar.
7. ,, Dr. P. Subbarayan.
8. Mr. Alladi Krishnaswami Ayyar.
9. ,, Hilton Brown.
10. ,, H. A. Watson.
11. ,, A. G. Leach.
12. ,, J. Gray.
13. ,, S. V. Ramamurti.
14. ,, C. B. Cotterell.
15. ,, V. Ch. John.
16. ,, M. A. Mannikkavelu Nayakar.
17. ,, Syed Tajudin Sahib.
18. ,, Abdul Wahab Sahib.
19. ,, H. B. Ari Gowder.
20. ,, R. Foulkes.
21. Mr. P. J. Gnanavaram Pillai.
22. ,, Mahmud Schamnad Sahib.
23. The Zamindar of Singampatti.
24. Mr. J. Kuppuswami.
25. Subadar Major S. A. Nanjappa Bahadur.
26. Mr. N. Siva Raj.
27. ,, M. V. Gangadhara Siva.
28. ,, V. I. Muniswami Pillai.
29. ,, W. P. A. Soundarapandian.
30. ,, S. Subrahmanya Moopanar.
31. ,, S. Venkiah.
32. Rao Sahib R. Srinivasan.
33. Mr. S. N. Dorai Raja.
34. ,, S. Arpudaswami Udayar.
35. ,, G. Premayya.
36. ,, B. Ramachandra Reddi.
37. ,, P. T. Rajan.
38. Khan Bahadur S. K. Abdul Razack Sahib Bahadur.
39. Mr. T. M. Moidoo Sahib.
40. ,, Khadir Mohideen Sahib.
41. Rao Bahadur B. Muniswami Nayudu.

[13th August 1929

Neutral.

1. Dr. (Mrs.) S. Muthulakshmi Reddi.
2. Diwan Bahadur P. Kesava Pillai.
3. Rao Bahadur C. S. Ratnasabapathi Mudaliyar.
4. Rao Bahadur Sir A. P. Patro.

Ayes 35. *Noes* 41. *Neutral* 4.

The amendment was negatived.

1 p.m. * The hon. the PRESIDENT :—" Amendments Nos. 28 and 29 are substantially the same as those already moved, and therefore cannot be moved."

* The hon. Mr. A. Y. G. CAMPBELL :—" Sir, I beg to move the amendment which stands in my name, viz.,

'*that in line 4, after the words " the Commission shall,"* the words *" if so required by the Local Government " be inserted.*'

" Sir, this is merely a drafting amendment."

Mr. K. R. KARANT :—" On a point of order, Sir. It is the hon. the Revenue Member himself who first moved that the Bill be taken into consideration. At any stage of the Bill, can the Mover himself put in amendments ? "

* The hon. the PRESIDENT :—" It has been the practice."

Mr. K. R. KARANT :—" I thought he would put in his amendments at the third reading stage, Sir."

* The hon. the PRESIDENT :—" The Bill as amended by the Select Committee is before the House and every Member of the House including the hon. Mover of the Bill is entitled to move amendments thereto. That is the reason why the Bill as prepared by the Select Committee is put by the Chair, in order to give facilities to the Mover of the Bill to move his amendments. That has been the practice. I am not able to find any standing order which prevents such a practice."

The hon. Mr. A. Y. G. CAMPBELL :—" I was saying, Sir, that the object of this amendment is to make it quite clear that if the Local Government wish, they can call upon the Commission to exercise its functions."

The hon. Sir THOMAS MOIR :—" I second it."

* Mr. S. SATYAMURTI :—" Sir, I am somewhat surprised at the hon. the Revenue Member's statement that this is a mere drafting amendment. At any rate, he did not really mean it. If he did, I respectfully differ from him. In my opinion, a drafting amendment is one which may make clear what is not already clear or which improves the English of the clause, in order to make the language more elegant or the meaning more clear. But here to say that the addition of the words 'if so required by the Local Governments' is merely a drafting amendment is too much of a draft on the credulity of this House.

" Sir, the clause as it stands says: 'The Commission shall advise the Local Government in regard to the regulations prescribing.' I take it, Sir, that it will then be construed that it is as much the right of the Commission to advise as it is the duty of the Government to consult the Commission. I cannot, however, give it as my final opinion, but it seems to me that it will be perfectly open to any one who has got to interpret this statute

13th August 1929] [Mr. S. Satyamurti]

thus: that when the word 'shall' occurs, it is as much the duty of the Local Government to consult the Commission as it is the right of the Commission to advise.

"Then, Sir, you were pleased to rule that movers of Bills can move amendments at this stage. I bow to that ruling, but, Sir, I think this House has got a right to expect from the Government a more definite attitude with regard to such matters of legislation. This Bill was introduced months ago; it was referred to a Select Committee. The hon. the Revenue Member was then in charge of the Bill and other Members also were Members of the Select Committee. They went into the Bill carefully and nothing has been said in the report of the Select Committee or in the amendments recommended by the Select Committee in the direction in which the hon. the Revenue Member now seeks to amend the Bill. May I ask him what has happened since the publication of the report of the Select Committee to make the Government change their mind in the matter and ask the House to amend this clause? Is it because the Government feel that they have defeated us on amendments on which practically all non-official opinion in this House was unanimous by its voting strength, excepting the opinion of those who are not responsible to anybody else except themselves and because they have since been advised by lawyers that unless this phrase is put in there will be difficulty in the working of this clause? I put it to the hon. the Revenue Member to tell us if this can really deal with all the difficulties, if that is the object of putting in this amendment. Is it seriously contended, Mr. President, that with regard to these more or less academic matters like qualifications of candidates, syllabuses of the examination, etc., the Government are in any case not to consult the Commission? No doubt, my hon. Friend has already taken the position that he is going to address the Secretary of State to make the necessary changes in the Delegation Rules. If that is so, Sir, I shall merely ask the House to make the changes themselves when they have got the power to do so, by amending this clause as it stands. I wish to appeal to my friends of other parties in this House that this is an attempt to take away even the small powers of the Commission as they stand in the present Bill as it emerged from the Select Committee. I hope every section of the House will resist this attempt.

"Apart from this, Sir, even assuming that the word 'shall' there may not make it obligatory on the Local Government to consult the Commission, why should not the House at least have the benefit of this doubt, so that it may be argued and argued successfully that it is a statutory duty of the Local Government to consult the Commission If this amendment is accepted by this House, Mr. President, it will come to this: that this Commission is not to be taken into the confidence of the Government and its advice is not to be sought even on small matters. In that case, may I ask this? What is this Commission for? Are we to have a Commission without even the power to give advice? If so, why not enact a simple Bill with one clause establishing the Public Services Commission and leaving it to convention to develop the whole procedure? This argument of 'convention' is conveniently used by the Government for all sorts of purposes. If it is a question of extending the powers of this Council or the powers of the Commission, we are asked to wait and see the effects of the blessed word 'convention'. But if it is a question of our asking that the Government's powers ought to be restricted in any manner or to any extent, then we are told: 'We do not want to provide

anything to override us or to restrict our powers; we shall continue to wield the powers that we have, you must not do so in this Bill but you must rely on "convention".' It seems to me, therefore, that the House will be well advised in at least being consistent with itself in seeing that the Government do not make further inroads into the already restricted powers of the Commission."

* Rao Bahadur B. MUNISWAMI NAYUDU:—"Sir, I am inclined to think that these words are unnecessary unless the legal adviser to the Government, the hon. the Advocate-General, will say that unless these words are there, it will be open to anybody else to consult the Commission. The Commission is established for a certain purpose. The Local Government appoint the men, and if there are any regulations necessary for appointing these men, it should be at the instance of the Government and not at the instance of anybody else. I do not think any other body is going to consult the Commission. Under these circumstances, it seems unnecessary to have these words introduced, and unless something more is going to be said in support of the amendment, we shall vote against this amendment."

Mr. P. ANJANEYULU:—"Mr. President, Sir, the legal adviser to the Government, the hon. the Advocate-General, seems to advise in a more bureaucratic manner than the Government itself."

* The hon. the PRESIDENT:—"I do not think the hon. Member will be justified in presuming that the hon. the Advocate-General has advised, unless the Government stated it or the Advocate-General himself accepted it. Why should the hon. Member advance arguments on presumptions?"

Mr. P. ANJANEYULU:—"With due respect, I submit my presumption is correct for this reason, that the hon. the Advocate-General was assuring this House, that, to-day, amendments for getting over the difficulties that arose with regard to clauses 6 and 7 and other amendments also would be brought forward."

* The hon. the PRESIDENT:—"No, no. These are amendments that were given notice of four or five days ago. These are amendments given notice of after the statement of the hon. the Advocate-General."

Mr. ALLADI KRISHNASAWMI AYYAR:—"On a point of personal explanation, Sir, these amendments have nothing to do with my advice."

* The hon. the PRESIDENT:—"Mr. P. Anjaneyulu."

Mr. P. ANJANEYULU:—"There is enough authority for me to presume, Sir, because when the discussion was going on on this subject, the hon. the Advocate-General was constantly consulted and whispered with by the hon. the Revenue Member and by the hon. the Finance Member. Whatever that be, from whatever part the inspiration came for this amendment, I take it that the amendment simply means that they want to make this Commission a toy for themselves. If they are pleased to consult the Commission, they will do so; if they do not want to do that, they will lay it aside in safe custody for such pleasure as they can derive when they can play with it. No man with any self-respect will consent to serve on the Commission if indeed it should be a merely advisory body at the beck and call of the Government, to be consulted not even in academic matters on which the Government cannot persume to have expert knowledge themselves. Therefore, Sir, I stoutly oppose the amendment. I can very well understand why

13th August 1929] [Mr. P. Anjaneyulu]

the hon. the Revenue Member wants to make the clause more explicit by passing this amendment. The section, as it is, reads :

' Where any competitive examination is to be held in India for the purpose of recruitment to any provincial or subordinate service or special post, the Commission shall advise the Local Government.'

" Possibly, the fear is that the word 'shall' may imply that there is an obligation, as my hon. Friend Mr. Satyamurti was saying, upon the Government that they should take the advice of the Commission. The Government now want it to be more explicit by the insertion after the word 'shall' the words 'if so required by the Local Government'. Is it right, I ask, that they should arrogate to themselves all the powers even of advice on such matters as the qualification of candidates, conditions of examinations, syllabuses of the examinations, etc. ? If, as the hon. the Revenue Member says, this is only a matter of phraseology, and the intention is already there, then I will advise him to drop this amendment. At least in matters like this, let him not make the discussions and deliberations of this House appear merely unreal. When the first motion was lost, even when the European group supported it, when the crux of the Bill as it was, the kernel of the Bill was lost, I thought there was nothing more in this Bill to be seriously discussed. Let not the Government make it appear that discussions in this House are becoming more and more unreal. In fact, that is the situation we are coming to, and I hope and trust the hon. the Revenue Member will be better advised, from whatever quarter it may be, to withdraw this amendment."

* Mr. G. Harisarvottama Rao :—"Mr. President, Sir, the hon. the Revenue Member has stated that this amendment is only a drafting amendment. We have heard from our friends how it is not a drafting amendment. The question at issue is this : The section says : 1-15 p.m.

' Where any competitive examination is to be held in India for the purpose of recruitment to any provincial or subordinate service or special post, the Commission shall advise. . . .'

" Here, Sir, it is a very limited question. It is a question of competitive examinations, and it is a question as to whose right it shall be to advise in this matter. It is a question whether Government are not bound to take the advice of this Commission on this simple question of competitive examinations.

" If after so much of trouble spent upon this Bill, after so much of the advocacy made by the Treasury Bench that we shall have a Public Services Commission to regulate the services, after a great deal has been said about the independent nature of the Commission, is it open to the Government to come and say that they shall have reserve powers in the matter of competitive examinations ? If they cannot hand over the full power of advice—it is not even full power of complete action, but full power of advice in this particular matter—I wonder what the Government intends to do with this Public Services Commission at all. It is a matter for regret that the hon. the Revenue Member is looking at this question entirely from the point of view of the bureaucrat that has reigned supreme in this land. He looks at it entirely from the bureaucratic standpoint and he has plainly said so in so many words that no obligatory provisions should be made in this Bill with regard to Government. He feels that the Government should be sacrosanct and that this Council should not attempt to do anything in the form of

legislation, prescribing for the Government a particular course of action. Here is a very simple matter and the simplest that can be thought of, namely, examinations and the advice that should be rendered with regard to examinations. Does the hon. Member contemplate any situation in which they propose to hold an examination for public services and yet withhold consulting the Public Services Commission? It is really a very strange position so far as this matter is concerned. I am really surprised that any plea should have been put in it all for reservation of power in the matter of referring for advice to the Commission. It is so patently the bureaucratic power that the Government desire to keep in this matter. It is so patently the desire of the hon. the Revenue Member to cut short the power of this House by the strength of the vote that he possesses in the House. It is really a very deplorable state of affairs and no man with any sanity and with any common-sense can support a motion like this. Where competitive examinations are going to be held, which must be within the province of the Public Services Commission, they must advise the Government and it must be obligatory on the part of the Government to accept such advice. Here even that obligation is not imposed and the Government comes forward to tell us that we shall not have this clause with the word 'shall' but shall have some more amendments to give them power to control the Public Services Commission. I regret, Sir, that Government instead of going about this business by keeping merely the residuary powers in their hands have gone about the business keeping all the powers to themselves and making this Commission a mere toy in their hands. It is a mere farce. This Public Services Commission is bound to be a mere farce if this amendment of the hon. Revenue Member is carried. The Government is looking at it as if the whole regulation of the public services is their private property and they are looking at it as if the bureaucrat must have the last word to say upon the recruitment to the public services. They do not want to give free power to the Public Services Commission. They have no intention of keeping the residuary powers under the present constitution in their own hands and going forward a step further and giving the Public Services Commission complete autonomy. There is not the slightest indication in the speeches delivered by the Members on the Treasury Benches to the effect. . ."

* The hon. the PRESIDENT :—"I understand that the hon. the Revenue Member proposes to withdraw the amendment."

Mr. G. HARISARVOTTAMA RAO :—"Then, I have no objection."

The hon. Mr. A. Y. G. CAMPBELL :—"Mr. President, Sir, in the very few brief words in introducing this amendment I wanted to make clear that if the Local Government wish they can call upon the Commission to exercise its functions. Not only they can advise the Commission, but also announce the number of vacancies and to make other arrangements. I wanted to make clear that only the Local Government, and not heads of departments, have the power to advise the Commission to exercise its duties. But, I find that this amendment has raised certain apprehensions in the minds of various Members of this House that we intend to limit the functions of the Commission. I may say that was not our intention and so I withdraw the amendment."

* The hon. the PRESIDENT :—"Has the hon. Member the leave of the House to withdraw the amendment?

"(After a pause) The amendment is by leave of the House withdrawn."

13th August 1929]

The hon. Mr. A. Y. G. Campbell :—" Sir, I move—

'*In sub-clause (ii) of clause 9, for the words "announce the number of vacancies" substitute the words "announce in accordance with such directions as may be issued to it by the Local Government, the probable number of vacancies".*'

" Sir, this is another amendment to make matters more clear."

The hon. Dr. P. Subbarayan :—" I second the amendment, Sir."

* Mr. S. Satyamurti :—" Mr. President, Sir, I do not agree with my hon. Friend the Revenue Member that the number of vacancies cannot be left to any Commission to decide. What is the number of vacancies for which they want to conduct an examination? What does this phrase 'announce in accordance with such directions as may be issued to it by the Local Government, the probable number of vacancies' mean? This morning at question time we have seen the sense of publicity of this Government exposed in respect of advertisements in the *Madras Mail*. Does it mean that the number of vacancies which the Government may issue shall have to be announced only in one paper, namely, the *Madras Mail* and shall not be announced in any other paper? I should like to know why these words are inserted. I think the phrase 'the probable number of vacancies' should quite meet the apprehensions of my hon. Friend the Revenue Member. Moreover, I think, speaking subject to correction, with regard to the rules made by the Secretary of State, governing the all-India Public Services Commission, the Commission announces the vacancies. At any rate, I see in the newspapers from time to time that the Commission announces the number of vacancies. The Commission says, there are so many vacancies in the Electrical department or in the Mining department and applications are invited. I would like to be corrected, if I am wrong, but I believe, I am right in both the points, that the rules themselves provide that the Commission shall announce the number of vacancies and secondly that the number of vacancies are now announced by the Public Services Commission itself. Sir, it seems to me that even in regard to a small matter of this kind, namely, with regard to the announcement of the number of vacancies, Government ought not to seek to fetter the discretion of the Commission in the manner of announcement with regard to newspapers, with regard to the time, with regard to the country and with regard to the languages and various other things. I do not think that the Commission's discretion ought to be fettered as far as the number of vacancies are concerned. It will of course be decided by the Government. The Commission has no vacancies to offer, it is only an advisory body and the vacancies are sought to be announced for the purpose of enabling candidates for the examination to make up their minds. May I explain that point? If there are 50 vacancies, there is likely to be a large number of candidates applying for the examination by paying fees and making preparation for the examination. Whereas, if there are only four or five vacancies, many people will not come forward knowing that their chances of success will be only one-tenth. In these circumstances, Mr. President, I want to put it to my hon. Friend the Revenue Member—I know I lack the persuasive eloquence of my hon. Friend from Chittoor, but still sometimes sense can come from this side of the House also—whether he considers that this

[Mr. S. Satyamurti] [13th August 1929

amendment is necessary, whether it is consistent with the dignity and self-respect of the Commission, and whether it is not best to leave the Bill as it emerged from the Select Committee."

* Mr. C. V. VENKATARAMANA AYYANGAR :—"Mr. President, I want to oppose this amendment: Sir, if we take this chapter, section 8 clearly lays down that 'the Commission shall advise the Local Government on any question which the Local Government may refer to it in connexion with the recruitment to any provincial or subordinate service or special post'. Therefore if the Commission has to function at all, it is the Local Government that has to give them some idea of the number of appointments to be filled by competitive examination the number to be filled by selection and the number by promotion. It is only after the Local Government gives that idea that the Commission begins to function. Clause 9 says: 'Where any competitive examination is to be held in India for the purpose of recruitment to any provincial or subordinate service or special post,' the competitive examination has to be held as per orders of the Government. Therefore it is quite unnecessary to say that this Commission will do nothing unless it is called upon by the Local Government. It is the Local Government that should decide first of all the number of appointments to be filled by competitive examination or by selection or promotion. As regards the appointments which the Government want to fill by competitive examination, clause 9 says as to what the Commission shall do. Therefore, it is very clear that the Commission has no functions to perform unless the Government first of all decides about the number of vacancies and so on, and then leave it to the Commission as to how the announcement should be made and the qualifications, etc., subject, of course, to the rules to be made under section 12. We were told only a few minutes ago that the Government agreed with the views of the opposition so far as the functions of the Commission are concerned. And, if the Government should decide on the necessity of asking the Secretary of State to widen the scope and powers of the Commission and of the Government under the Delegation Rules, where then is the necessity to restrict the powers with any further amendment? Certainly we are going too far in the way of restricting the powers of the Commission and the Government ought not to go forward relying on the strength of their majority vote."

The Council then adjourned for lunch.

After Lunch (2-30 p.m.).

The hon. Mr. A. Y. G. CAMPBELL :—"Sir, I beg leave to withdraw my amendment."

The amendment was, by leave, withdrawn.

* The hon. the PRESIDENT :—"I find there are two amendments proposing a new sub-clause to clause 9. Mr. Satyamurti proposes to add the following new sub-clause :—

"*The Local Government shall not recruit to any provincial or subordinate service or special post any person who is not in the list so forwarded by the Commission.*

"The other amendment of Mr. Harisarvottama Rao is more comprehensive and I allow it to be moved,"

13th August 1929]

* Mr. G. HARISARVOTTAMA RAO :—" Mr. President, Sir, I beg to move—

'*That the following be added as a new sub-clause at the end of clause 9 :*
" *The Local Government shall not recruit to any provincial or subordinate service or special post any person who is not in the list so forwarded by the Commission, provided that the Local Government may, for reasons to be recorded in writing, act in variance with such advice.*" '

" I am sure, Sir, that this amendment is nothing violent in its nature. It does not in any manner invade against the vested interests of the Government. The Government is called upon by this amendment to stick to their original intention that they will respect the Public Services Commission. The Commission according to the sub-sections of the clause will be called upon to make lists of persons qualified for the several appointments and the addition of this sub-clause makes it the duty of the Government to pay due regard to such lists. I have made sufficient provision, Sir, in the amendment, for the Government to act on its own initiative in case it considers that by the circumstances it is compelled to so act, but in ordinary circumstances it must be the rule for the Government to accept the lists prepared by the Commission. This is a small grace that I am asking, Sir. I have not expanded the powers of the Public Services Commission beyond what they can legitimately claim. They are entitled to hold examinations for the Government, to regulate the services in other matters, and to prepare a list of qualified persons and when they have so prepared it, I do feel, Sir, that the Government must have very special reasons if they want to set aside any decision of the Commission. It is quite possible, I can conceive of a situation, Sir, where the Government may be compelled to appoint persons who are not on the list, but how often do such necessities arise ? They can arise only once in a time and they can arise only under exceptional circumstances. If they did not arise once in a time, if they did not arise under exceptional circumstances, the provision of a Public Service Commission, the provision of competitive examinations and the provision for lists being made would all be a mere farce. It would have absolutely no meaning or weight. Therefore, the question raised by the amendment is a very much smaller question ; it is not a question of appointments, not even a question of recruitment. It is only a question of choice from a list which has been prepared in accordance with the rules prescribed, in strict accordance with the instructions of Government, whatever they may be. Having obeyed all the instructions of the Government having paid due regard to the rules that are made by the Government in this behalf, this list is prepared and when the list is so prepared, we are asking the Government not to deviate from it generally and ordinarily. They are given special powers to deviate in special circumstances, but have in such cases only to record their reasons in writing. Is it not fair to the services that such a deviation should be for very special reasons and that the Government should record those special reasons ? Will it not be ensuring justice for those employed under the Government if we make a provision like that ? Is it not right that the men who are in service now and who will enter it later must have an assurance that after all the trouble that they took to enter into the lists of the Commission the lists shall not be overridden by the Government choosing whomsoever they liked ? Is that too much to ask on behalf of the services and on behalf of the purity of administration, that the Government should concede this point to the Public Services Commission which is

admittedly the most independent body for the purpose of regulating the services. I hope, Sir, that the hon. the Revenue Member will not look at it from the angle of vision which has become customary with him. I want him, Sir, to give careful attention to the fact that I am not asking for any sweeping change to be effected, I am not asking for any extra powers to be given to the Commission, nor am I asking the Government to depart from its usual routine. It does not affect the powers of the Government, and it is not an invasion against the spirit of the provisions of this Act which the hon. the Revenue Member enunciated though I will not concede that that is the proper spirit. Even according to him, Sir, there should be no objection to this amendment, and I hope the hon. the Revenue Member will be generous enough to accept this amendment and obviate unnecessary discussion on the floor of this House."

Mr. J. A. Saldanha :—"Sir, I beg to second this amendment. It is intended to provide a safeguard against the Government acting in utter disregard of the recommendations of this Commission or even without consulting it. It is intended to meet only such a contingency. We shall take a concrete case. Suppose the Swarajist party comes into power as it is likely one day and a Swarajist Cabinet of seven Ministers propose to refrain from consulting the Commission or to make up their mind to bring in their own men to the services setting aside the Commission's recommendations. In order to save such a contingency this sub-clause is provided and I think it stands to reason that in the interests of the independence of the services that this amendment should be made and that the Public Services Commission may be an independent body, and not a wing of the Secretariat acting according to the whims of the departmental Secretary or of the Governor in Council acting with his Ministers. I hope, Sir, that the House will accept the amendment."

* Mr. A. Kaleswara Rao :—"I rise to support the amendment. The Public Service Commission receives instructions from the Government as to the number of vacancies and it calls for applications, examines the applications and prepares a list of candidates who are most suitable in their opinion according to their order of preference. The question is what should become of the list. Is it to be thrown into the waste paper basket by the
2-45 p.m. Government or should the Government usually, ordinarily and automatically follow the list and accept the list and make appointments only from that list. That is the question before the House and before the Government. Of course, in extraordinary circumstances where they feel that some outsider is to be appointed, then they may set out their reasons in writing."

* Mr. Alladi Krishnaswami Ayyar :—"On a point of order, Sir. I feel some doubt about it, and I would rather leave it to the Chair than . . ."

* The hon. the President :—"Unless the hon. Member raises it as a point of order, I am not here to solve doubts. I have to give my rulings on any points of order that are raised."

* Mr. Alladi Krishnaswami Ayyar :—"I would raise the point of order, Sir, but I won't argue that point. . ."

The hon. the President :—"Then I do not propose to hear him."

13th August 1929]

* Mr. ALLADI KRISHNASWAMI AYYAR :—" Very well, Sir, I raise this point of order. Rule 12-A of the Classification Rules provides that all appointments to provincial or subordinate services and all appointments to special posts shall be made by the Local Government or any local authority empowered by the Local Government in that behalf. If a power of appointment is vested under a particular rule by the Secretary of State, if you merely lay down a procedure in making that appointment, that may not cut at the power ; but on the other hand if you compel the appointing authority to accept the advice of another body and that otherwise it must record its reasons in writing, I feel that it abridges the power or takes away the power vested under rule 12-A of the Classification Rules. And having regard to rule 5 of the Delegation Rules, it says that any local legislation must be subject to the rules passed under section 96-B. I feel, Sir, that to that extent it abridges or takes away the power under rule 12-A and to that extent only I am referring to it. I am not referring to the other part of it. Anything that lays down the procedure in exercising that power I should not think directly violates that provision ; if it merely says 'you take its advice' or something like that, it will not abridge or take away that power. But, on the other hand, the power of appointment is vested in the Local Government under rule 12-A of the Classification Rules, and under rule 5 of the Delegation Rules it is stated that the rules shall be subject to other rules passed under section 96-B of the Government of India Act. I am afraid that in so far as you compel the authority to accept another power, you practically cut at the power of appointment vested in the Local Government. And if you say that the Government should not deviate from the advice of the Commission as suggested in the amendment, then it will be repugnant to the rule 12-A I already referred to. It is only in regard to the reasons to be recorded that I raise the point of order."

* The hon. the PRESIDENT :—" I understand from what the hon. the Advocate-General has stated, that he wants to assert it as a fact that this amendment contemplates that the Government shall appoint according to the advice given by the Commission. If I agreed with him, I would feel no difficulty in holding that the amendment is ultra vires. But my construction is that the amendment as it stands does not take away from the Government their right to use their discretion. It only says, 'you must ordinarily accept the recommendations of the Commission, but where you differ from those recommendations, then, you must record your reasons for differing from them.' That means your power is intact as contemplated by the Classification Rules. We do not want to take away the power of appointment from the Government but this legislature wants that the Government should not be autocratic in regard to this matter. And it must explain the reasons why it selected the candidates in a particular manner. That is the only restriction which the legislature fixes ; and to give such a direction to the Government is within the powers vested in the legislature under section 80-A of the Government of India Act."

* Mr. ALLADI KRISHNASWAMI AYYAR :—" Now that a reference has been made to section 80-A, I want to say this. On more than one occasion in the course of the debate reference was made to it, and I should like to mention it, Sir, in order to clear up one point."

Dr. B. S. MALLAYYA :—" On a point of order, Sir. Is a debate allowed on a point of order ?"

[13th August 1929

* The hon. the PRESIDENT:—"Not at all. In order to enable the President to give the right ruling the hon. the Advocate-General is advising him."

Mr. G. HARISARVOTTAMA RAO:—"I hope it is not like the advice given to the Government."

* The hon. the PRESIDENT:—"The advice of the hon. the Advocate-General is available not only to the Government but also to the President."

* Mr. ALLADI KRISHNASWAMI AYYAR:—"With regard to the services, the power of legislation by the local legislature does not rest under section 80-A of the Government of India Act, but under section 96-B thereof, as the delegated authority of the Secretary of State for India in Council. The fountain of authority, with regard to the services, is the Secretary of State. That power may be delegated either to the Local Government or to the local legislature, or other local authority. The power of the local legislature in regard to legislation is circumscribed by the ambit of the delegation from the Secretary of State for India in Council. If, for example that rule has the validity of an Act of Parliament, because that is the effect of section 96-B, then a local legislature cannot pass any measure for the peace and good government of the province so as to affect any Act of Parliament; and the expression 'Act of Parliament' would include not merely particular sections of the Government of India Act but also the rules passed in pursuance of particular sections of the Government of India Act. Therefore if, on a proper construction of the rules, the power of the legislature is circumscribed by rule 5 of the Delegation Rules, it cannot be enlarged by referring to section 80-A which, no doubt, on its terms would confer plenary powers on the local legislature in regard to peace and good government of the province, because this is a special jurisdiction that is conferred upon the local legislature by reason of section 96-B and it derives its authority from that delegation. That is the only point I want to submit, Sir, because in dealing with section 80-A that aspect should be considered."

* The hon. the PRESIDENT:—"I have to thank the hon. the Advocate-General for the light he has thrown on this matter, but at the same time I am not able to say I am convinced by the arguments advanced by him. My construction of sections 80-A and 96-B is this. If any legislation proposes to vest powers to control the method of recruitment, then it is subject to the provisions of section 96-B of the Government of India Act. This provision, according to my construction, does not in any way control or circumscribe or take away the powers that are vested in the Government by the Delegation Rules. My construction of this amendment in effect is that it only says the Government shall not be arbitrary in making the appointments, and that direction or legislative provision is within the purview of the good government of the province and does not amount to regulation of the services. Therefore I think the amendment is in order."

* Mr. A. KALESWARA RAO:—"Now, Sir, the Government instead of making appointments as it pleases, should make appointments only from the list submitted to it by the Commission. If it likes, it may ask the Commissioners to give them a larger panel out of which they may make appointments as they please. Even apart from that, if they want to appoint

18th August 1929] [Mr. A. Kaleswara Rao]

strangers altogether, they can do so, but it must be on special and extraordinary occasions; and in each such case the reasons must be put down in writing. That is what this amendment says. Therefore it proposes to make the advice of the Commission respected by Government. Otherwise the Commission would only be a nominal or a useless one. The object, as admitted by the Government itself, of appointing a Commission like this and of proceeding with an Act like this in such a hurried way is that an independent Commission should come into existence and the burden of the Government. . . ."

* The hon. the PRESIDENT :—"I do not think the hon. Member is justified in referring to the hurried legislation on this amendment. He will have ample opportunities on another occasion to refer to hurried legislation."

* Mr. A. KALESWARA RAO :—"The Government at any rate wants to divest itself of its burden in this matter, this complicated matter in which the claims of the several communities also have to be carefully considered particularly at this time when communalism is very vocal and appointments have to be made for the various posts, both competitive posts as well as posts to be filled by nomination. Therefore it is but right that the House should expect that the Commission's views should be respected and appointments be only made from the list before the Government, ordinarily; and in extraordinary circumstances also it may do as it pleases, but the reasons must be given. One thing might be said, Sir. It may be asked why should the reasons be set down then and there? Of course when the appointments are made, naturally this House will put questions whether a list was given to the Government and whether the Government followed that list and so on. If the Government has not followed the list, then the Government for the purpose of supporting itself in the debate may invent some reason and say something which will naturally be unsatisfactory. But on the other hand, if the reasons that come to the mind of the Government just at the time of making the appointments are put down in writing once for all, then the whole procedure will be proper and there will be a safeguard that the Government does not do anything as it pleases and will not try to invent some reason or other when questions are put on the floor of this House. For these reasons, I support the motion."

* The hon. Mr. A. Y. G. CAMPBELL :—"Mr. President, Sir, even at the risk of disappointing my hon. Friend, Mr. Harisarvottama Rao, I am afraid I must adopt the same attitude towards this motion as I have done in the case of several similar motions. As I have pointed out before, this Bill is intended for the establishment of a Services Commission and for determining the functions of that Commission. And in my view this is not the right place for such provisions as that which it is now proposed to embody in the Bill. The correct place for them in my view is the Classification Rules issued by the Secretary of State for India in Council. Rule XII-A of those Rules provides already that all first appointments to the provincial or subordinate services or to special posts shall be made by the Local Government or by any authority empowered by the Local Government in this behalf, provided that the previous sanction of the Governor-General in Council shall be obtained in certain cases. And those cases include the making of first appointments to provincial services otherwise than (1) by promotion from a subordinate service, or (2) as a result of a

competitive examination, or (3) after consulting a permanent board of selection, etc. So, when a competitive examination is held for appointment to a provincial service there is already a provision that if the Government does not make appointments according to the result of competitive examination, a report should go to the Governor-General in Council."

3 p.m. * Mr. S. SATYAMURTI :— " Sir, I feel I am unconvinced by the arguments of the hon. the Revenue Member. The amendment, Sir, is a reasonable and modest one. It simply seeks to fetter the discretion of the Government to this very small extent that when the Government takes the trouble of consulting the Commission and when the Commission takes the trouble of conducting an examination and arranging the candidates in the order of merit on the result of the examination and forwards this list to the Government, the Government ought to have at least the courtesy of not appointing anybody outside this list to posts which are filled up by competitive examination. It seems to me that the soundness of the proposition is obvious. I can understand the Local Government saying that certain appointments ought not to be filled up by competitive examination. There, I think that the Government should have unfettered discretion unless they agree to fetter that discretion by any well-known or well-understood tests. But, Sir, when the Government deliberately chooses to set apart a class of appointments that they should be filled up by competitive examination, to say that the Government will not accept the results of that competitive examination, but may appoint some people who have not come out according to the Commission in the order of merit as being fit for appointment seems to me a position which this House cannot really accept. What is this Commission for? What is this consultation with the Commission for? What are the examinations by the Commission for? And my hon. Friend the Revenue Member said that in his view the correct place for making these changes is the India Office at Whitehall, and now, it seems to me, Mr. President, that that may suit the Executive Government's convenience, for they will desire to dictate the form that the rules should take and get them done at the Whitehall. I think, therefore, that this House should insist upon this House itself putting down amendments which will carry out the object which we have in view.

" Mr. President, I listened to the speech of the hon. the Revenue Member carefully, and he did not say one word, by which he opposed the amendment on the merits. I put it to him—I think he has got a second chance to speak, or else he will ask somebody else to reply—whether the Government have any objection to accept the results of the competitive examination as binding upon them in respect to appointments which they themselves set apart as liable to be filled up on the results of a competitive examination. It seems, to me, Sir, that unless the Government want to have absolute patronage in their hands in regard to all classes of appointment, the Government ought to accept a modest recommendation like this. We say, 'you set apart certain appointments to be filled up by competitive examination, conduct the examination by the Commission, accept the results and appoint anybody you like from that list. You need not appoint the first man first, the second man second. Appoint any one of them, but do not appoint some one outside the list.' It seems to me that for the hon. the Revenue Member to get up and say, 'this can be done elsewhere', and for the House to accept that position is inconsistent with our duties and privileges.

13th August 1929] [Mr. S. Satyamurti]

"My hon. Friend, the Revenue Member, also referred, Sir, to Rule 12-A of the Delegation Rules. I do not know if these rules have been supplied to us by Government. But by the courtesy of your office I was able to get a copy".

* The hon. the PRESIDENT :—"They were published in the Gazette, and the Gazette is supplied to all the Members of the Council, I believe."

* Mr. S. SATYAMURTI :—"I stand corrected, Sir. There, it says that the permission of the Government of India should be obtained for first appointments except those on the result of a competitive examination or those on the recommendation of a permanent board of selection appointed by the Local Government. 'The results of competitive examination,' that phrase is in the context of the rule. Is it suggested by the hon. the Revenue Member or by his expert advisers that in the context it means that they can only get the results of a competitive examination and that they can appoint any one who is not in the list, and then say 'we have examined some other people, *A*, *B* and *C*. We can appoint *X*, *Y* and *Z* who are not in the list'. Such a proposition has only to be stated to be refuted. Therefore, Rule 12-A of the Delegation Rules has no relevancy to this amendment. I think this is the least which the House is bound to do, if, I repeat, Commission is to discharge its function as self-respecting Commissioners would like to discharge them. I commend this amendment to the acceptance of the House."

* Mr. C. V. VENKATARAMANA AYYANGAR :—"I also want to say one or two words on the position taken up by the hon. the Revenue Member. This is the third time that reference has been made by him that if any amendment is to be moved it should be done in the Secretary of State's office. He forgets, Sir, that after all these rules are not made necessarily for one province. The rules are intended evidently for all provinces. Even supposing that if all Governments are unanimous in the matter it will convince the Secretary of State to make that rule, we say that the other provinces in this country have not thought about it and they do not find it necessary to have an Act like this, and therefore those Governments may not at all care to ask for or to agree to any change in the Delegation Rules. The chances are so very few, if at all there is any chance of the Secretary of State amending his rules. Therefore, we need not press that point here.

"The other point is this. The hon. the Revenue Member himself admitted that so far as first appointments are concerned they have not got the final word. Either the appointment should be on the results of a competitive examination, as we want here; if not on the result of a competitive examination, it must be on the recommendation of a permanent selection board. Though we differ from the point of view of the Government, the Government seem to be saying that this commission will be one coming under that category. If, therefore, the Government do not make appointments on the results of a competitive examination, or if the Government do not make appointments on the recommendation of a permanent board of selection, then the Government are bound to apply to the Government of India for the appointment. In that case, are they going to apply to the Government of India without giving them any reasons? They must give some reason. We only want that that reason should be made public. If anybody wants that information, the Government may publish that information. There is no new duty cast upon them by this amendment, so that

their time will be wasted by giving out the reasons. They are bound to give the reasons according to the rule, and when the reasons are such as to satisfy the Government of India, certainly the public can also be satisfied. Therefore to say 'that we will give the reasons only to the Government of India for first appointments but we will not at any time make those reasons public' seems to be that the Government do not want to take either the Council or the country into your confidence. I think, in the interests of the Government also it is desirable that this amendment should be passed."

Mr. Abdul Hameed Khan :—" Sir, with regard to this amendment, I wish to say one thing. If the implication of this amendment is to disable members of particular communities who may not be able to occupy a proper place in a competitive examination, if the implication of the amendment is to deprive communities other than those who will come out in any competitive examination occupying the first few places, if that is the implication of the amendment, Sir, I do not think that it is advisable to pass this amendment. I realize that every one here in the Council seeks to make the Commission as independent as possible of the Government. But, if the Government is going to retain in its hands the power to give opportunities, even after a competitive examination, to members of other communities in the matter of recruitment, I dare say it will be advisable to leave that power in the hands of the Government. So far as I understand this amendment, if it is carried through, it will fetter the hands of the Government in doing justice to communities other than those coming out of a competitive examination."

* The hon. the President :—" I take it the House is ready for vote. The question is,

' *To add the following as a new sub-clause to clause 9 :—*

" *The Local Government shall not recruit to any provincial or subordinate service or special post any person who is not in the list so forwarded by the commission,*

Provided that the Local Government may, for reasons to be recorded in writing, act in variance with such advice "'."

The amendment was put and declared lost.

Mr. G. Harisarvottama Rao demanded a poll, which was taken with the following result :—

Ayes.

1. Mr. P. C. Venkatapathi Raju.
2. ,, K. Koti Reddi.
3. ,, Sami Venkatachalam Chetti.
4. ,, S. Satyamurti.
5. ,, C. V. Venkataramana Ayyangar.
6. ,, J. A. Saldanha.
7. ,, G. Harisarvottama Rao.
8. ,, C. S. Govindaraja Mudaliyar.
9. ,, Abdul Hameed Khan.
10. ,, L. K Tulasiram.
11. ,, K. V. R. Swami.
12. ,, D. Narayana Raju.
13. ,, K. R. Karant.
14. Mr. P. Anjaneyulu.
15. ,, C. Obi Reddi.
16. ,, C. Ramasomayajulu.
17. ,, A. Kaleswara Rao.
18. ,, K. V. Krishnaswami Nayakar.
19. ,, K. S. Sivasubrahmanya Ayyar.
20. ,, A. Ranganatha Mudaliyar.
21. Diwan Bahadur R. N. Arogyaswami Mudaliyar.
22. Mr. R. Nagan Gowda.
23. ,, C. R. Parthasarathi Ayyangar.
24. ,, T. C. Srinivasa Ayyangar.

13th August 1929]

Noes.

1. The hon. Khan Bahadur Sir Muhammad Usman Sahib Bahadur.
2. ,, Sir Thomas Moir.
3. ,, Diwan Bahadur M. Krishnan Nayar.
4. ,, Mr. A. Y. G. Campbell.
5. ,, Mr. M. R. Seturatnam Ayyar.
6. ,, Mr. S. Muthiah Mudaliyar.
7. ,, Dr. P. Subbarayan.
8. Mr. Alladi Krishnaswami Ayyar.
9. ,, Hilton Brown.
10. ,, H. A. Watson.
11. ,, A. G. Leach.
12. ,, J. Gray.
13. ,, S. V. Ramamurti.
14. ,, C. B. Cotterell.
15. ,, V. Ch. John.
16. ,, M. A. Manikkavelu Nayakar.
17. Syed Tajudin Sahib Bahadur.
18. Abdul Wahab Sahib Bahadur.
19. Mr. C. D. Appavu Chettiyar.
20. ,, J. Bheemayya.
21. ,, R. Foulkes.
22. ,, P. J. Gnanavaram Pillai.
23. Mahmud Schamnad Sahib Bahadur.
24. Mr. J. Kuppuswami.
25. Subadar-Major S. A. Nanjappah Bahadur.
26. Mr. N. Siva Raj.
27. ,, M. V. Gangadara Siva.
28. ,, V. I. Muniswami Pillai.
29. ,, W. P. A. Soundarapandian.
30. ,, S. Subrahmanya Moopanar.
31. ,, S. Venkiah.
32. Rao Sahib R. Srinivasan.
33. Mr. S. N. Dorai Raja.
34. ,, S. Arpudaswami Udayar.
35. ,, G. R. Premayya.
36. ,, C. Gopala Menon.
37. ,, B. Ramachandra Reddi.
38. Rao Bahadur C. S. Ratnasabapathi Mudaliyar.
39. Rao Bahadur Sir A. P. Patro.
40. Diwan Bahadur P. C. Ethirajulu Nayudu.
41. Mr. P. T. Rajan.
42. ,, T. K. Chidambaranatha Mudaliyar.
43. Khan Bahadur Abdul Razack Sahib Bahadur.
44. Khadir Mohidin Sahib Bahadur.
45. Khan Sahib T. M. Moidoo Sahib Bahadur.
46. Rao Bahadur B. Muniswami Nayudu.
47. Mr. K. Sarabha Reddi.
48. Mr. A. V. Bhanoji Rao.

Neutral.

1. Mr. C. E. Wood.
2. ,, A. J. Leech.
3. Mr. F. E. James.
4. ,, H. F. P. Hearson.

Ayes 24. *Noes.* 48. *Neutral* 4.

The amendment was lost. 3-15 p.m.

Clause 9 was put, passed and added to the Bill.

Clause 10.

* Mr. S. SATYAMURTI :—" I move—

'*that in lines 3 to 6, foa the words " the Commission shall . . . . applications ", the following be substituted :—*

" *the local Government shall consult the Commission in regard to the qualifications of candidates and the submission of applications and thereupon the Commission shall advise on such matter, and* '"

" Sir, a similar amendment has been discussed on the floor of this House. The point of this amendment is that it should be made obligatory upon the local Government to consult this Commission with regard to the regulations prescribing the qualifications of candidates and the submission of applications. It is obviously a matter on which any Government ought to be thankful for expert advice. After all, there are special posts, subordinate services and provincial services for recruitment to which you may have to get expert advice as to the qualifications needed for particular place or places. I do not know if the hon. the Revenue Member has given notice of or is going to move an amendment, as he did under an earlier clause, namely, ' to add the words " if required to do so." ' "

* The hon. the PRESIDENT :—" The hon. the Revenue Member is not going to move any of his amendments, excepting the last one."

[13th August 1929

* Mr. S. SATYAMURTI :—" We have to be thankful for small mercies, and I congratulate the Government for having given up that position. I am not going to repeat myself and say whether the word 'shall' means or does not mean that it is obligatory on the part of the Government to consult this Commission in all these matters. No doubt, I may say, speaking for myself, if it is conceded by the expert adviser to the local Government that the word 'shall' necessarily means that it is obligatory on the part of the local Government to consult the Commission, the object of my amendment is achieved. I do not think he can very well contend otherwise If really he accepts that suggestion I will ask him to consider whether my amendment may not be accepted in order to make the meaning of the clause clearer. It would then simply mean that the local Government shall consult the Commission with regard to the qualifications. That is not an amendment which seeks to make anything binding on the Government. We only want that before Government makes up its mind on a matter it shall have the benefit of the advice of the expert body. I move the amendment."

Mr. C. V. VENKATARAMANA AYYANGAR :—"I second it, and in doing so I wish to say that it is much more necessary in the case of nominations than in other cases that Government should consult this Commission before they come to any decision. Therefore, whatever might be the result of the vote on the last amendment, I think this amendment would be accepted."

* The hon. Mr. A. Y. G. CAMPBELL :—"Mr. President, Sir, for reasons which I have already explained, and in consonance with the view I have expressed on a previous occasion, I must oppose this motion as it is not correct to put in this provision in the law."

The amendment was put and negatived.

Mr. G. Harisarvottama Rao demanded a poll.

When the President rose to put the question, after the division bell was rung, Mr. Schamnad Sahib entered the Chamber from outside. At this there were cries of order, order.

* The hon. the PRESIDENT :—" I request the hon. Member (Mr. Schamnad Sahib) to leave the House. The convention we have established is that the moment the President rises to put the question, no Member will thereafter be allowed to get into the Council."

The House then divided thus :

Ayes.

1. Mr C. E. Wood.
2. ,, A. J. Leech.
3. ,, F. E. James.
4. ,, H. E. F. Hearson.
5. ,, V. Ramjee Rao.
6. ,, P. C. Venkatapathi Raju.
7. ,, K. Koti Reddi.
8. ,, Sami Venkatachalam Chetti.
9. ,, S. Satyamurti
10. ,, C. V. Venkataramana Ayyangar.
11. ,, J. A. Saldanha.
12. ,, G. Harisarvottama Rao
13. ,, C. S. Govindaraja Mudaliyar.
14. Abdul Hameed Khan Sahib Bahadur.
15. Mr. L. K. Tulasiram.
16. Mr. K. V. R. Swami.
17. ,, D. Narayana Raju.
18. ,, K. R. Karant.
19. ,, P. Anjaneyulu.
20. ,, C. Obi Reddi.
21. ,, C. Ramasomayajulu.
22. ,, A. Kaleswara Rao.
23. ,, K. V. Krishnaswami Nayakar.
24. ,, K. S. Sivasubrahmanya Ayyar.
25. ,, A. Ranganatha Mudaliyar.
26. Diwan Bahadur R. N. Arogyaswami Mudaliyar.
27. Mr. R. Nagan Gowda.
28. ,, C. R. Parthasarathi Ayyangar.
29. ,, T. C. Srinivasa Ayyangar.

13th August 1929]

Noes.

1. The hon. Khan Bahadur Sir Muhammad Usman Sahib Bahadur.
2. ,, Sir Thomas Moir.
3. ,, Diwan Bahadur M. Krishnan Nayar.
4. ,, Mr. A. Y. G. Campbell.
5. ,, ,, M. R. Seturatnam Ayyar.
6. ,, ,, S. Muthiah Mudaliyar.
7. ,, Dr P. Subbarayan.
8. Mr. Alladi Krishnaswami Ayyar.
9. ,, Hilton Brown.
10. ,, H. A. Watson.
11. ,, A. G. Leach.
12. ,, J. Gray.
13. ,, S. V. Ramamurti.
14. ,, C. B. Cotterell.
15. ,, V. Ch. John.
16. ,, M. A. Manikkavelu Nayakar.
17. Syed Tajudin Sahib Bahadur.
18. Abdul Wahab Sahib Bahadur.
19. Mr. C. D. Appavu Chettiyar.
20. ,, J. Bheemayya.
21. ,, R. Foulkes.
22. ,, P. J. Gnanavaram Pillai.
23. Mr. J. Kuppuswami.
24. Subadar-Major S. A. Nanjappah Bahadur.
25. Mr. N. Siva Raj.
26. ,, W. P. A. Soundarapandian
27. ,, S. Subrahmanya Moopanar.
28. ,, S. Venkiah.
29. Rao Sahib R. Srinivasan.
30. Mr. S. N. Dorai Raja.
31. ,, S. Arpudaswami Udayar.
32. ,, G. R. Premayya.
33. ,, B. Ramachandra Reddi.
34. Rao Bahadur C. S. Ratnasabapathi Mudaliyar.
35. Rao Bahadur Sir A. P. Patro.
36. Diwan Bahadur P. C. Ethirajulu Nayudu.
37. Mr. P. T. Rajan.
38. ,, T. K. Chidambaranatha Mudaliyar.
39. Khan Bahadur S. K. Abdul Razack Sahib Bahadur.
40. Muhammad Kadir Mohideen Sahib Bahadur.
41. Khan Sahib T. M. Moidoo Sahib Bahadur.
42. Rao Bahadur B. Muniswami Nayadu.
43. Mr. K. Sarabha Reddi.

Ayes 29. Noes 43.

The amendment was lost.

Mr. S. SATYAMURTI :—" I beg to move—

'*that the proviso at the end of the sub-clauses be omitted*'.

" In spite of my past experience and my experience to-day, I am still hoping that this amendment is so reasonable that I think, in spite of the usual opposition of my hon. Friend the Revenue Member, although it is somewhat urbane, the House would not be averse to accepting this amendment. We see the limit of absurdity here ; you appoint a Commission and ask them to interview the candidates for appointment, and then you provide that a representative of the local Government should be there to poke his nose into the affairs of the Commission. I think it is an intolerable state of affairs, intolerable alike to the officer and to the Commission. Is the representative of the local Government there to speak on its behalf and try to influence the deliberations of the Commission, or is he merely to exercise an independent judgment and advise the Commission as to what it should do? Now, Sir, I 3 30
do not know for what special reasons the hon. the Revenue Member wants p.m.
this proviso. It is hardly going to get expert advice from this officer. After all, the local Government is the ultimate authority for making the appointments and the House by its vote has already decided that the entire power to make appointments should be in the hands of the Government. I can understand, that if the Commission's powers had been expanded and the Commission's decisions had been made binding upon the Local-Government; it might be conceivably necessary for the representative of the Local Government to be present at the Commission to represent the Government point of view. As the House has left the discretion of the Government wholly intact, I submit that this clause is inconsistent with the dignity and the smooth working of this Commission and it will put in an embarrassing position both the Government and the Commission.

[Mr. S. Satyamurti] [13th August 1929

" Moreover, if a Member of the Government wants to know from the officer present at the interview what the result of the interview was, is the unfortunate officer going to divulge it? If he divulges it he will be placing the Commission in a delicate situation, and if does not divulge it, he will be placing himself in a very delicate situation. I think in fairness to the unfortunate officer, in fairness to the Government, in fairness to the Commission and in fairness to the candidate alike, this proviso should be deleted. With these few words, I move my amendment."

Mr. C. V. Venkataramana Ayyangar :—" I second it."

* The hon. Mr. A. Y. G. Campbell :—" Mr. President, the object of this proviso is to enable the Commission to have the advantage of expert advice in selecting persons for particular services. For instance, for the selection to medical services the Surgeon-General or some medical officer could be deputed to assist the Commission. In the same way with regard to other appointments also which require fairly expert qualifications. That is the object of this proviso and for that reason, I do not think I can accept the amendment."

Mr. Sami Venkatachalam Chetti :—" Sir, before the hon. the Revenue Member explained the object of this proviso, I thought that the local Government wanted to depute its officer to enable him to know the merits of the candidates who were appearing before the Commission in order that his personal knowledge might help him in making the selection out of the list that would be submitted by the Commission. Now that the hon. the Revenue Member has explained that the object was to assist the members of the Commission in making the choice, it seems to me that it is utterly objectionable as it is an influence from which it was the desire and the anxiety of this Council and the Government to free the Commission from. I also suspect that this is a very dangerous proviso in that it is intended to enable the local Government to depute one of its officers to be present at the interview and under the guise of advising the Commission, influence the Commission to make a particular choice. I think the seriousness of the position must be realized by the House and support accorded to the motion before the House."

Mr. K. V. R. Swami :—" Mr. President, I was thinking that this special officer is intended to be there to avoid calling these candidates again in order to ascertain whether they are smart fellows or dull fellows or something like that. I never thought that this officer would go there in the capacity of a judge and advise the Commission who are simply to be there like assessors in a sessions court to make decisions according to the wishes of this officer. Anyhow, fortunately for the House the hon. the Revenue Member made no secret of the fact that this officer is sent there to advise the Commissioners to make the best selection according to his bidding. This surely is a very humiliating position for the Commission. We have been told all this time that the Commission would be entirely an independent body and that it would not be influenced by any consideration whatsoever. But now we are told that the functions of this Commission are only advisory. The Commission knows very well that it is an advisory body because, after all, it is the officer specially deputed to be present at the interview that is to make the final selection whatever advice the Commission might have

13th August 1929] [Mr. K.V.R. Swami]

given. Under these circumstances, would they still persist in having their own way and select candidates against the wishes or advice of the officer present? They must be fools to do so. They are not ignorant of the officer's wishes like the assessors who would be asked to give their opinion in a case before the judge gives his. The reverse is the case here. The Commissioners know beforehand what the view of the officer is and like ordinary mortals they would adjust their view to that of the officer. Sir, as I said, I was under the impression that the officer would be there as a silent spectator to ascertain the previous history of the family of the candidate in order to make up his mind for the final selection. But the hon. the Revenue Member says: No, no. He is not a mere figure head. He is there to advise the Commission to make the best choice. That means he is superior to the Commission which we are going to set up at a heavy cost. If a costly Commission of this kind is to carry out the behests of the Government merely, where is the necessity for this body at all? Having a Commission of this kind, to depute an officer to advise it in selecting candidates would be illogical. If they want to look at the faces of the candidates for appointment, they can summon them for the purpose as in fact that is what they have been doing. I have no faith in these interviews. When the University has once examined the candidates and when they are selected after a competitive examination, where is the necessity for an interview at all involving the candidates numbering hundreds at a time in large expenditure. Last of all, I repeat there is no necessity for the presence of this dictator in the person of an officer at the interviews to tell the Commission: You, fools, you must select this man or that man, otherwise your advice will not be accepted. That is very humiliating and I think the Government should save the Commissioners from such humiliation."

* Rao Bahadur Sir A. P. Patro:—"The hon. Member from East Godavari thinks that it is very humiliating that an expert should be present at the time when the selection is made. I am surprised to hear that it is humiliating to have the assistance and advice of persons qualified to help the Commission in the matter of selection of candidates. This is not a new proviso. A similar proviso is to be found in the rules framed by the Secretary of State for the guidance and working of the All-India Services Commission. The All-India Services Commission does not consider it derogatory to have the assistance of an officer of the Government of India to advise it in the matter of selection and we find that encomiums are bestowed on the efficient working of that body. Therefore there is absolutely no reason whatever to think that it is humiliating to the Commission to have expert assistance in the discharge of their duties properly and efficiently. I submit that the proviso is very necessary and salutary for another reason that the members of the Commission are not equipped with the technical qualifications that are required for examining the candidates possessing technical skill and qualifications. And, after all, the making up of the list rests with the Commission and not with the officer."

* Mr. P. C. Venkatapathi Raju:—"Mr. President, Sir, we had been all along saying, during the consideration of the previous clauses, that this Commission would be a creature of the Government. Not satisfied with that, the Government, by this proviso, want to make it a creature of the departmental heads. They want the presence of a departmental head at the time of the interview of these candidates. Sir, I should like to know from the

[Mr. P. C. Venkatapathi Raju] [13th August 1929

hon. the Revenue Member what would happen if the officer present differed from the selection made by the Commission? Perhaps he will be instructed to send up a confidential report to the Government giving out his views. This sort of thing would make the Commission not merely a creature of the Government as we have been complaining, but a creature of the departmental heads also.

" Apart from that, I was surprised to find my hon. Friend Sir Patro saying that these departmental heads are experts. We know as a matter of fact that the Ministers who are said to be managing the departments are entirely in the hands of the so-called experts. It is the experts that are ruling the departments in spite of the fact that responsibility has been placed for their administration on the Ministers. If the Government felt that the advice of these experts was necessary and essential, why should they create a body—the Public Service Commission—and saddle on to the finances of the province the expenses connected therewith. If that be their view, this work can as well be left in the hands of the experts as is the case now, and so much money will be saved thereby."

* Mr. F. E. James:—" Mr. President, Sir, I fail to see how the presence of an expert at the interview of candidates would be humiliating to the Commissioners. We are going to have on the Commission three men with a good deal of general experience. How can they be expected to know the difference between a biological and an inorganic chemist? The position of these members is going to be as dignified and secure as those of the High Court Judges. Why should they feel it derogatory to have the assistance
3-45 of experts in making their selections? Because an expert officer may be
p.m. present at the interview, to suggest that he may write confidential notes to the Government and that the Government may act upon them has no foundation whatever. Have you no confidence in your own people? If you have, there is no room whatever to fear that they will bring undue pressure to bear upon the Commissioners to act in accordance with the wishes of the Government in the selection of candidates."

Mr. K. Koti Reddi:—"In all the amendments that we have been trying to introduce to this Bill in order to see that this Commission is made as far as possible an independent body not ordinarily influenced by the Government in the exercise of their patronage, we have been failing miserably. But the amendments that we have been trying to introduce so far are nothing when compared with the present amendment. If the proviso to clause 10 is not omitted in accordance with this amendment, I have no hesitation in saying that this Commission is a mere farce. My hon. Friend, the Member for the European Planters, said how the presence of an expert could be considered as humiliating to the Commission. I request him to note that it is not the mere expert that will be present. He will be an official who will be deputed by the Government. If, as Mr. James said, these members of the Public Service Commission had been experienced men, men who have knowledge of the world, I fail to see the necessity for the presence of an official expert. If the Public Service Commission think that expert advice is necessary, it is up to them to appoint such men whom they wish to appoint. If the section says that the Commission can ask an expert adviser, including a Government official, to be present, that would have been different. But

13th August 1929] [Mr. K. Koti Reddi]

what the section says is that the Government have a right to thrust their own man. Sir, it is the official who decides the number of people who are to be selected. Government will ordinarily consult such officials as would support their point of view. These officials if they are present on the commission will say 'I want this man: I do not want that man'. The result will be when the list prepared by the Commission comes to the Government they will naturally act according to the advice given by the official who was present in the Commission. If, as my Friend feels, there is a necessity for the Commission to take up expert advice it is for them to take such advice from such official as they deem fit to take from. It is not for the Government to thrust their own man on the Commission. In the case cited by the hon. the Revenue Member he said that the Surgeon-General would be the right man in giving expert advice in the selection of candidates for the Medical Department. As a matter of fact, the list of candidates selected by the Commission used to be sent to the Medical Board and only after they have been certified to be eligible for service medically that their names will be entered in the list. In cases where the Commission think that expert advice is necessary it is open to them to appoint such men as they think fit. The Public Service Commission will be a mere farce if the Government thrust their own official to influence the decision of the Commissioners in the selection of candidates. In that case, instead of appointing a Public Services Commission the Government can do all the work themselves. The real fact seems to me to be that the Government is not interested in seeing that the Public Services Commission is kept free from all political influences and is an independent body. In clause 12 of the Bill they have fixed the number of candidates with regard to various communities in which my hon. Friend Mr. Hameed Khan and the Justice Party and some of us are also interested. So far as that aspect is concerned Government have been given the power to fix the number with regard to each community. Therefore I ask why the Commission cannot be trusted in the matter of selection of candidates without Government's interference. I fail to see the justice of their cause. I appeal to the hon. the Revenue Member that he would be kind enough to see that at least this proviso is not thrust into the Bill."

Mr. Abdul Hameed Khan :—"This is a very important motion and I fail to understand the arguments put forward by my hon. Friend, Mr. James, the member for the European Planters. Sir, let us examine what is the purpose that has to be served by the presence of that officer. The hon. the Revenue Member gave the illustration of the Surgeon-General as an expert officer with regard to the Medical Department. He said that if the Commission called for applications with regard to appointments in the medical service then the presence of the Surgeon-General would be necessary. I wish to know whether there are any rules made with regard to the qualifications of candidates who have to be selected for each of these appointments. I do not know what the Surgeon-General can do in the matter. Is he going to examine the candidates medically, is he going to examine them with regard to their qualifications? The qualifications of these applicants will be before the Commission, their degrees will be before them. All the things about these candidates will be placed before the Commission in writing. What is it that the Surgeon-General can do in the matter? As has been pointed out by previous speakers the Commissioners will be men of sufficient experience and intelligence and they will be able to differentiate between

candidates and candidates. What the Surgeon-General is going to do I do not know. Is he going to find out whether a student is taller than another or one student is stouter than another? If the Government wish to get report with regard to each candidate selected by the Commission they can do so. The Secretary is there and he can prepare a resume of the whole interview and forward it to the Government. If the Government think that these Commissioners are honourable men they must trust them. If we examine the position coolly and carefully we will have to come to the conclusion that the presence of an official on the Commission will be of no purpose. He must be there either to sit quietly or to influence the decision of the Commissioners in which case the Commissioners will certainly be reduced to non-entities. Therefore I appeal to the Members of this House, especially to my Friend Mr. James and other European members—I do not know what the attitude of the Justice Party will be towards this motion but from the voting that has taken place we feel we were not able to influence the members of the Justice Party—to vote with us because we feel we will be able to influence them rather than the members of the Justice Party. I hope that this amendment will be carried."

*Mr. G. Harisarvottama Rao:—"I am surprised at the way in which this language is interpreted. The proviso says 'Provided that in case the appointment is to be made by the Local Government, the local Government may, if they think fit, appoint an officer to be present at the interview referred to in clause (iii).'

"If the Government intended to convey the impression to this House that they had in mind that the presence of an expert official was necessary at the interview, I should have expected the provision to have been drafted in quite another form. This language lends itself to no other interpretation except this: that wherever the Government may think fit and for whatever reason it may be they can appoint an officer to be present at the interview. Sir, if we really know the English language to any advantage this must be the meaning. I am afraid the hon. Member representing the Planting constituency was misled by his enthusiastic confidence in certain people. I want, Sir, that he should have real confidence in the Public Services Commission. If we should show our confidence in the Public Services Commission we might do so in this way, viz., by introducing a provision that the Government may appoint expert advisers to the Public Services Commission on a requisition from the Commission or whenever the Government deems that such advice is necessary. Nothing of the kind has been done in this particular proviso. This proviso appears to me to be one of two things: it is an attempt on the side of the Government to add one of their number to influence the decision of the Commissioners, or to put it mildly, to serve as a police man's baton. There is absolutely no doubt that the Government is looking at these things from a very conservative point of view and at the last moment they thought of putting some interpretation upon the words here. Their original intention was not what has now been expressed on the floor of this House. If their original intention was not what I have expressed now, viz., that this officer is intended to be a C.I.D. then what is the meaning of introducing a clause like this that this officer shall be appointed by the Government to be present? Why is a man present on behalf of another? Is it not to watch how things go on and to find out how the selfish interests of these whom he represents are affected?

13th August 1929] [Mr. G. Harisarvottama Rao]

"In this case the mighty Government may appoint an officer of its own, a highly placed man, for instance, the Surgeon-General for the Medical Department, to watch the proceedings of the Public Services Commission. I do not know what further steps will be taken by the Government; they may empower the officer to interfere in the work of the Public Services Commission by way of offering advice. Then what will happen to the Commission? What is the meaning of an officer being present at a particular place by appointment? It means this: he is the custodian of the interests of the person or body by whom he is sent. Here it means he is the custodian of the interests of the Government which appoints him and sends him to the Public Services Commission. If he is the custodian, it means that the Government distrusts the Commission itself. The Government consider that the Members of the Commission are not their custodians; they have faith in the person they appoint. If they feel that the Commission they are appointing is to the best benefit of all persons, there is no need for sending a man who is to act on their behalf and who will hold the policeman's baton, as it were, upon the head of these Commissioners. I therefore feel that one of two things is or true. Either the original intention of the Government is what we suspect or that the legislation which they have brought forward is faulty, halting and incorrect. This proviso does not reflect the meaning of the Government. I is open to the Opposition to challenge the hon. the Revenue Member to tell us if he is convinced, the purpose for which the officer is to be sent, whether this is good legislation, whether this is a provision made in the best interests of all concerned, and whether this is the kind of legislation that should be passed on the floor of this House. If he wanted his interpretation to be put upon the clause, I should have expected the hon. the Revenue Member to make a motion on the floor of this House to defer the consideration of this proviso and to come before us with a better worded proviso, so that it may be clear to us that what he means is that expert advisers should be sent to the Commission to assist the Commissioners when such expert advice is necessary. I do not see any point in the pleading of the hon. Revenue Member that it is intended to give the Commission expert advice. The Government can afford to be more specific; the Government can afford to be more definite; the Government can afford to take us more into confidence. The Government should have more confidence in its own Public Services Commission. I therefore feel that apart from all considerations of merit, apart from considerations of clear drafting, apart from considerations of the necessity of the case, the Government should take time to make clear their exact meaning. Hon. Members from all parts of the House should uphold our motion and have this proviso deleted. I say that it is the duty of this house to see that legislation is definite, that legislation reflects the exact meaning of the legislators, that legislation is not undertaken which imports into the clauses put in there, the possibility of a chaos of interpretation. I therefore feel that the amendment should be passed." 4 p.m.

* Mr. S. Arpudaswami Udayar :—"Sir, I fear my hon. Friends in Opposition are straining this provision of the Bill. Giving expert advice does not mean, and cannot, by any stretch of imagination, be made to mean the exertion of undue influence on the Members of the Commission, nor that it would reduce the Members to the position of nonentities, or that it is like brandishing the policeman's baton as a threat that they must select this one or that

[Mr. S. Arpudaswami Udayar] [13th August 1929

one recommended by the expert officer. We have so many subjects and so many different kinds of qualifications. I take Engineering; there is Civil Engineering, Mechanical Engineering, Electrical Engineering, and so many branches of Engineering and the Commissioners who are really experienced men cannot be expected to know every thing of all things. The presence of a man who is to give advice can never mean that the judgment of the Members of the Commission will be unduly influenced. It will have the effect of enabling the Commissioners, to judge better and decide the question of proper qualification. Take Medicine; there are so many subjects. Take one subject, Medical Jurisprudence. It is very easy to assert that certain persons possess the requisite qualifications. Some men may have gone to foreign countries, may have had many years of training, may have had the benefit of lectures of eminent physicians with regard to that subject. The expert officer can distinguish between university and university and between degree and degree and point out who possesses very high qualifications. Likewise also in other subjects. The mere presence of an expert officer can never be made to mean the exercise of undue influence. My hon. Friends, I fear, are carrying their pessimism too far."

Mr. L. K. TULASIRAM :—" Thank you, Sir; after all I caught your eye."

* The hon. the PRESIDENT :—" When leaders of parties have spoken on a matter, I generally hesitate to call upon the members of parties."

* Mr. L. K. TULASIRAM :—" I do not want to take much of the time of the Council. I intervene in the debate only when I feel that some words are necessary on my part. Hon. Members may take that assurance which I give.

" It was stated by my hon. Friend representing the Indian Christian community from Trichinopoly, that all are not experts in all the subjects. I welcome his suggestion. Instead of the words 'the Local Government may, if they think fit', the words 'if the Members of the Commission think it necessary' may be substituted. This proviso shows that the Government have no trust in the Members of the Public Services Commission and they want to add an ornamental appendage to go and be present there. I have great respect for the Law Officer who drafted the Bill."

Mr. ALLADI KRISHNASWAMI AYYAR :—" I had nothing to do with the drafting of it."

Mr. L. K. TULASIRAM :—" What I say is, it is the duty of that officer to be present. The hon. the Revenue Member was presuming the existence of a lot of words which do not exist in the proviso. He said that the officer should be present there and advise the Commission. That is the interpretation which the hon. the Revenue Member was putting on the phrase. Really no such interpretation can be put on the proviso. The officer has got a statutory right to be present at the interview, as the proviso stands as it is. Sir, what is the purpose? He may be there to take confidential notes about the candidates, about their appearances, about their stature, etc. The words that are used, are 'to be present'. This is the drafting of a statute which is to adorn the libraries of the Madras Government. Simply to say that the officer should be present does not serve the purpose of the Government. Any person may point out that the officer can only be present there; if he does anything more, it will not be recognized as an act that has been sanctioned by the statute. The hon. the Revenue Member then said

13th August 1929] [Mr. L. K. Tulasiram]

that this officer would be another expert of Government to help the experts who are the members of the Public Services Commission. This is nothing more than a clog on the freedom of action of the members of the Public Services Commission. You are adding a gentleman who will act like a spy and who will report to you about the candidates who are the best favourites of the Government. The words that have been used in the proviso are 'an officer to be present' whereas in all the arguments of the hon. the Revenue Member he was using the word 'expert'. If you want really to appoint an expert officer, nobody would object to it; but the request for the assistance of an expert should come from the members of the Commission themselves. He should not be sent at a time when the Government think that he ought to be there. It will only mean that you want to prejudice the Commission to put up the name of the candidate who is in your good graces and that you want to spoil the work of this Commission which is a costly white elephant. I wish that this unhappy proviso should be deleted, the proviso which is not definite, which is very vague and which shows in all its nakedness that the Government have no trust in the members of the Public Services Commission."

* The hon. the PRESIDENT :—" The question is—

" *To omit the proviso*'."

The amendment was put and declared lost. A poll was demanded and the House divided thus :—

Ayes.

1. Mr. P. C. Venkatapathi Raju.
2. ,, K. Koti Reddi.
3. ,, Sami Venkatachalam Chetti.
4. ,, S. Satyamurti.
5. ,, C. V. Venkataramana Ayyangar.
6. ,, J. A. Saldanha.
7. ,, G. Harisarvottama Rao.
8. Basheer Ahmed Sayeed Sahib Bahadur.
9. Mr. C. S. Govindaraja Mudaliyar.
10. Abdul Hameed Khan Sahib Bahadur.
11. Mr. L. K. Tulasiram.
12. ,, K. V. R. Swami.
13. ,, D. Narayana Raju.
14. ,, K. R. Karant.
15. Mr. P. Anjaneyulu.
16. ,, C. Obi Reddi.
17. ,, C. Ramasomayajulu.
18. Sriman Biswanath Das Mahasayo.
19. Mr. A. Kaleswara Rao.
20. ,, K. V. Krishnaswami Nayakar.
21. ,, C. Venkatarangam Nayudu.
22. ,, K. S. Sivasubrahmanya Ayyar.
23. ,, A. Ranganatha Mudaliyar.
24. Diwan Bahadur R. N. Arogyaswami Mudaliyar.
25. Mr. R. Nagan Gowda.
26. ,, C. R. Parthasarathi Ayyangar.
27. ,, T. C. Srinivasa Ayyangar.

Noes.

1. The hon. Khan Bahadur Sir Muhammad Usman Sahib Bahadur.
2. ,, Sir Thomas Moir.
3. ,, Diwan Bahadur M. Krishnan Nayar.
4. ,, Mr. A. Y. G. Campbell.
5. ,, Mr. M. R. Seturatnam Ayyar.
6. ,, Mr. S. Muthiah Mudaliyar.
7. ,, Dr. P. Subbarayan.
8. Mr. Alladi Krishnaswami Ayyar.
9. ,, Hilton Brown.
10. ,, H. A. Watson.
11. ,, A. G. Leach.
12. ,, J. Gray.
13. ,, S. V. Ramamurti.
14. ,, C. B. Cotterell.
15. Mr. V. Ch. John.
16. ,, M. A. Manikkavelu Nayakar.
17. Syed Tajudin Sahib Bahadur.
18. Mr. C. D. Appavu Chettiyar.
19. ,, J. Bheemayya.
20. ,, R. Foulkes.
21. ,, P. J. Gnanavaram Pillai.
22. Mahmud Schamnad Sahib Bahadur.
23. Mr. J. Kuppuswami.
24. Subadar-Major S. A. Nanjappah Bahadur.
25. Mr. N. Siva Raj.
26. ,, M. V. Gangadhara Siva.
27. ,, V. I. Muniswami Pillai.
28. ,, W. P. A. Soundarapandian.
29. ,, S. Subrahmanya Moopanar.
30. ,, S. Venkiah.

[13th August 1929

Noes—cont.

31. Rao Sahib R. Srinivasan.
32. Mr. C. E. Wood.
33. ,, A. J. Leech.
34. ,, F. E. James.
35. The Raja of Kallikota.
36. Mr. S. Arpudaswami Udayar.
37. ,, S. N. Dorai Raja.
38. ,, G. R. Premayya.
39. ,, V. Ramjee Rao.
40. ,, B. Ramachandra Reddi.
41. Rao Bahadur Sir A. P. Patro.
42. Diwan Bahadur P. C. Ethirajulu Nayudu.
43. Mr. P. T. Rajan.
44. ,, T. K. Chidambaranatha Mudaliyar.
45. Khan Bahadur S. K. Abdul Razack Sahib Bahadur.
46. Muhammad Khadir Mohidin Sahib Bahadur.
47. Khan Sahib T. M. Moidoo Sahib Bahadur.
48. Rao Bahadur B. Muniswami Nayudu.
49. Diwan Bahadur A. M. M. Murugappa Chettiyar.
50. Mr. K. Sarabha Reddi.

Ayes 27. *Noes* 50.

4-15 p.m. The amendment was lost.

* Mr. G. Harisarvottama Rao :—" Mr. President, Sir, I move that at the end of sub-clause (iv), a new sub-clause be added :

'*The Local Government shall not recruit to any provincial or subordinate service or special post any person who is not in the list so submitted by the Commission, provided that the Local Government may, for reasons to be recorded in writing, act in variance with such advice.*'

" Sir, we have had very wonderful expositions of the principles upon which we are proceeding. I know, Sir, that the hon. the Revenue Member is to-day in the happy position of having the irresponsibility of a bureaucrat combined with the advantage of, the responsibility of a Minister with supporters on all sides except in the Opposition benches here. He has proved to the hilt that he will not accept even very reasonable amendments; and yet I wish to make attempt after attempt and try to influence the vote of this House for something which the hon. the Revenue Member may after all consider reasonable. In this particular amendment, Sir, I want to draw the special attention of the hon. the Revenue Member to the fact that this is a matter which concerns the subject of selection by the Public Services Commission. Selection is a process which is very difficult for the candidates appearing before the selecting body. The candidates have to come all the way to the selecting board, they have to appear before it probably after spending a good deal of money and making their own arrangements to be present at the proper time. The hon. the Revenue Member has, with the support that he could command, got the provision by which he could appoint an officer to be present at the interview when these candidates are being examined by the Public Service Commission. It is therefore a complete provision, so far as the selection goes. There is the selecting body of Commissioners and along with them the Government have got their own officer. Under those circumstances, it should naturally be expected that the Government would keep to the list prepared as a result of such selection. I want the hon. the Revenue Member to forget for a while the other clauses and the amendments. I want him to remember the difficulties of candidates who have to get selected and who have to stand the test of personal interview. I want also the hon. the Revenue Member to remember that the Government owe a duty to those whom they call upon to appear before the Commission. It becomes incumbent on them to put as little of

13th August 1929] [Mr. G. Harisarvottama Rao]

restriction on the free employment of men who appear before them after they are once selected, as possible. If the Government are given the power under ordinary circumstances to depart from the recommendations of the Commission, what happens really is that the candidates will have to undergo very great difficulties and the selection would be absolutely of a very unjustifiable nature, all things taken together. Therefore, it is up to the hon. the Revenue Member to consider this amendment on its own merits. I want him to remember that when once the House has conceded that he could send a man or a special officer to the interview and to have all the other advantages of the Bill as it is going—the advantages of practically controlling the Public Service Commission—he could very well, in all fairness to the candidates that have to stand the selection test, accept my amendment which merely seeks to restrict the arbitrary power of the Government and induce them to recruit only such persons as are on the list duly prepared by the Commission after the process of selection. Even in the amendment, Sir, there is a power left to the Government that they are at liberty to act in variance with such advice of the Commission in exceptional cases. When the Government have in this way got all possible provisions for the control of the Commission, may it not be right for them to accept this humble amendment and thus shorten the discussion, so that we may go in a some what brisker manner?"

* Mr. A. Kaleswara Rao :—" Sir, I rise to second the amendment moved by my hon. Friend Mr. Harisarvottama Rao, and in doing so, I want to submit that the ways of the Government are as inscrutable as the ways of Providence. The Government say that they want to create an independent machinery, but they have everywhere put in provisions to curtail the independence, the prestige and the dignity of the Commission. They have chosen to put in a clause to the effect that an officer of the Government should be present at interviews with the candidates. Of course much was said about that officer—I do not know what officer will be there, and nothing has been said specifically that he would be an expert. Whatever it is, there is the Government officer who would unduly influence the Commissioners. Even then the Government are not satisfied. They want to have the power to reject the advice given by the Commission without assigning any reasons therefor. If the Commissioners are able to compose and adjust their differences with the officer who is to be present, why should the Government have still the power to reject the advice? If, on the other hand a friction occurs between the officer and the Commissioners, it would really be unfair to the Commissioners if the Government should act on the report of their officer and select candidates from the list of those who have been rejected at the interview. In either case, there should be a finality for the Government to make the appointment. It is but fair that here at least the Government should say that they will not appoint anybody who is not in the list. The presence of the officer of the Government will itself make the Commissioners omit those who are in the bad books of the Government or to include the relatives of those who have supported the Government in times of political crises—all that of course will be done under the present constitution of the Government even in the process of the preparation of the list itself in consultation with the officer of the Government. Therefore, I say it is but right and proper that the Government should select its employees from the list of people recommended by the Commission. Provision has however been made

in this amendment for extraordinary cases where the Government will have the power to act in variance with the advice of the Commission. I hope the amendment will be carried by this House."

* The hon. Mr. A. Y. G. CAMPBELL:—" Mr. President, Sir, the arguments for and against this amendment are somewhat similar to those relating to a similar amendment which was proposed by my hon. Friend Mr. Harisarvottama Rao under clause 9. In this connexion, I may refer again to Classification Rule XII-A under which if an appointment is made to a provincial service by the Local Government by selection, it must be done after consulting a permanent board of selection or the Public Service Commission or in accordance with arrangements approved by the Governor-General and if the appointment is to be made otherwise, the previous sanction of the Government of India must be obtained. There is another point, Sir, which I may mention in this connexion. If an appointment is to be made by selection, it is conceivable that cases may arise in which the Government ought not to accept the advice of the Commission for reasons which have arisen after the Commission made its selection; such cases will be very exceptional when the Government may not be able to accept the recommendation of the Commission, but it might be undesirable to publish the reasons; the reason might relate to a comparison between the qualification and characters of various candidates and it may be very undesirable that those reasons should be placed at the disposal of the public. Therefore, I submit that safeguard provided already in rule XII-A is quite sufficient, and the Government will in almost all cases, be guided by the recommendation of the Commission."

Mr. C. RAMASOMAYAJULU:—" Sir, I rise not with the hope that on the strength of my speaking, this amendment has got a chance of being carried in this House so much as to have my last say on the attitude which the Government have adopted the whole of this day towards amendments proposed by the Opposition. I may assure the Government that any one who runs can read into the number of amendments given notice of by the Opposition, and be convinced that the Opposition has only one particular motive in moving these amendments and that is that we want to confer on the contemplated Commission that status, that independence and that disinterestedness which the Government themselves profess they want to have. It is in that view that we here are proposing amendment after amendment, and the Government come in the way, the very Government which professed at the time they brought in this Bill in the Council that they wanted to create an independent body, independent of the political influences in the country. In the light of that statement, Sir, we propose all these amendments with a view to maintain the integrity of the Commission, so that it might not get influenced either by the Government or by any political party. But unfortunately, the very Government who had that view are now rejecting all the amendments, and I fail to see why the Government have adopted this attitude. I may now give a warning to the Government, Sir, that even among those friends who are now opposing these amendments, I do not think they will be able to find one self-respecting person in view of this attitude which the Government have taken to-day who will be prepared to accept a position in this Commission under these humiliating conditions

13th August 1929] [Mr. C. Ramasomayajulu]

All that is requested in this amendment is that the scope of the selection may be limited to the persons selected by the Commission. A similar amendment has been voted against by this Government and this amendment also will probably be voted down. But all the same, we wish to maintain the integrity of the Commission and in that view, we tabled this amendmen and all the other amendments moved previously. I do not know what the Government mean by adopting this attitude. On the one hand they say that they wish to maintain the prestige, the independence and the integrity of the Commission; but at the same time, they want to send the head of the department to be present at the interview. For what purpose? 4-30 p.m. Is it for the purpose of maintaining the integrity and independence? The head of the department is there and, read with the other provisions that the Commissioners are liable to be removed at the sweet will and pleasure of the Local Government and that they are to be appointed by the Local Government, all these provisions will only lead us to understand the Government only in one way, namely, that they want the Commission only with a view to support their actions and not with a view to get independent advice or allow the Commission independent discretion in the matter of the distribution of appointments to the various services. I therefore wish to support this amendment. I hope the House will at least accept this amendment, which is after all a modest one."

Mr. J. A. Saldanha :—"Mr. President, Sir, the attitude of the Government only confirms our suspicion that they wish to make this Commission a sweet hand-maid of theirs. I hope at least in this respect, the Government will accept this amendment, as there is no semblance of respectability with all the restrictions and humiliations thrust upon it. Let us at least have something respectable and honourable to this House which has passed the Bill by making this Commission perform honourable functions. I hope therefore that the Government will yield to this amendment; if not now, I hope at the third reading stage they will bring certain amendments and make this Bill emerge as something dignified and worthy of this House as well as of the Government."

The amendment was put to the House and declared lost.

Mr. G. Harisarvottama Rao demanded a poll and the House divided thus:—

Ayes.

1. Mr. P. C. Venkatapathi Raju.
2. ,, K. Koti Reddi.
3. ,, Sami Venkatachalam Chetti.
4. ,, S. Satyamurti.
5. ,, C. V. Venkataramana Ayyangar.
6. ,, J. A. Saldanha.
7. ,, G. Harisarvottama Rao.
8. ,, C. S. Govindaraja Mudaliyar.
9. ,, Abdul Hameed Khan.
10. ,, L. K. Tulasiram.
11. ,, K. V. R. Swami.
12. ,, D. Narayana Raju.
13. ,, K. R. Karant.
14. ,, P. Anjaneyulu.
15. Mr. C. Obi Reddi.
16. ,, C. Ramasomayajulu.
17. Sriman Biswanath Das Mahasayo.
18. Mr. A. Kaleswara Rao.
19. ,, K. V. Krishnaswami Nayakar.
20. ,, C. Venkatarangam Nayudu.
21. ,, K. S. Sivasubrahmanya Ayyar.
22. ,, A. Ranganatha Mudaliyar.
23. Diwan Bahadur R. N. Arogyaswami Mudaliyar.
24. Mr. R. Nagan Gowda.
25. ,, C. R. Parthasarathi Ayyangar.
26. ,, T. C. Srinivasa Ayyangar.

[13th August 1929

Noes.

1. The hon. Khan Bahadur Sir Muhammad Usman Sahib Bahadur.
2. ,, Sir Thomas Moir.
3. ,, Diwan Bahadur M. Krishnan Nayar.
4. ,, Mr. A. Y. G. Campbell.
5. ,, Mr. M. R. Seturatnam Ayyar.
6. ,, Mr. S. Muthiah Mudaliyar.
7. ,, Dr. P. Subbarayan.
8. Mr. Alladi Krishnaswami Ayyar.
9. ,, Hilton Brown.
10. ,, H. A. Watson.
11. ,, A. G. Leach.
12. ,, J. Gray.
13. ,, S. V. Ramamurti.
14. ,, C. B. Cotterell.
15. ,, V. Ch. John.
16. ,, M. A. Manikkavelu Nayakar.
17. ,, Syed Tajudin Sahib.
18. ,, C. D. Appavu Chettiyar.
19. ,, J. Bheemayya.
20. ,, R. Foulkes.
21. ,, P. J. Gnanavaram Pillai.
22. ,, Mahmud Schamnad Sahib.
23. ,, J. Kuppuswami.
24. Subadar-Major S. A. Nanjappah Bahadur.
25. Mr. N. Siva Raj.
26. ,, M. V. Gangadhara Siva.
27. ,, V. I. Muniswami Pillai.
28 ,, W. P. A. Soundarapandian.
29. ,, S. Subrahmanya Moopanar.
30. ,, S. Venkiah.
31. Rao Sahib R. Srinivasan.
32. Mr. S. N. Dorai Raja.
33. ,, S. Arpudaswami Udayar.
34. Raja of Kallikota.
35. Mr. G. R. Premayya.
36. ,, V. Ramjee Rao.
37. ,, B. Ramachandra Reddi.
38. Rao Bahadur Sir A. P. Patro.
39. Diwan Bahadur P. C. Ethirajulu Nayudu.
40. Mr. P. T. Rajan.
41. ,, T. K. Chidambaranatha Mudaliyar.
42. Khan Bahadur S. K. Abdul Razack Sahib Bahadur.
43. Khader Mohideen Sahib Bahadur.
44. Khan Sahib T. M. Moidoo Sahib Bahadur
45. Rao Bahadur B. Muniswami Nayudu.
46. Mr. K. Sarabha Reddi.

Neutral.

1. Mr. C. E. Wood.
2. ,, A. J. Leech.
3. Zamindar of Seithur.

Ayes 26. *Noes* 46. *Neutral* 3.

The amendment was lost.

* The hon. the PRESIDENT:—" I now put clause 10 to the vote of the House. The question is—

'*That clause* 10 *shall stand part of the Bill.*' "

Clause 10 was put, passed and added to the Bill.

Clause 11.

* Mr. G. HARISARVOTTAMA RAO:—" Mr. President, Sir, I am trying to make another attempt to appeal to the fair sense of the hon. the Revenue Member—may be in vain or may not be in vain. I hope, Sir, in this case, at any rate, he will accept the amendment and see that justice is granted. I move, Sir, that a new sub-clause be added to clause 11 in this manner—

'*The Local Government shall not promote any such candidates except in the order of preference arranged by the Commission.*

Provided that the Local Government may, for reasons to be recorded in writing, act in variance with such advice.'

" Mr. President, Sir, you will see that in this case the Public Service Commission is called upon to consider the claims of candidates nominated by the heads of departments. In the first instance, there is the control kept in the hands of the Government. It is not as if the applicant appears before the Public Service Commission or as if the Commission is asked to decide *en masse*, but here there is a specific power left in the hands of the heads of

13th August 1929] [Mr. G. Harisarvottama Rao]

departments to nominate men who have to be promoted and the Public Service Commission is expected to act only in reference to such men as are nominated by the heads of departments. Now, Sir, after that has happened, there is the advice in respect of which the candidate nominated possesses the requisite qualifications and a good record and character and ability for the service for which it is proposed to appoint him. Nothing is left out. This sub-clause makes it very clear that the Government have taken care to point out to the Public Service Commission on what matters they should give their opinion, that is, they should examine the candidate with reference to these nominated persons in regard to the qualifications, record, character and ability. Having examined all these things, they have to arrange the order. Now, Sir, so much precaution has been taken and when the Government has had a hand in the nomination of the men, when the heads of departments are given the complete choice to choose their men to go before the Public Service Commission, is it open to the Government now to come and tell us that they shall not accept my amendment? Is it open to the Government to say that it is such a case as to deserve a very wide power in their hands? Even here, I have not restricted the powers of the Government. It has the power of revision as a second chance. The first chance is there in the nomination, the second chance being in the matter of revision. What I propose is really this: that the Local Government may, for reasons, to be recorded in writing, act in variance with such advice given by the Public Service Commission.

"I do not know whether my appeal will have any value, but still I make the appeal. I make the appeal once more through you, to other members of other parties and especially to those friends of ours, the European Members who have attempted to be fair to up-to-day in one or two amendments. I appeal to them that when there are restrictions already in the choice of men, the heads of departments are already there to nominate men, whether it is essential to leave in the hands of the Government wider powers than my amendment gives them. I do not see that the Government can go before the country or any hon. Member of the House can go before the country and say with any justification that they have voted against this amendment. This amendment seeks the least that can be sought to check the arbitrary powers that the Government keeps in its hands with regard to appointments, recruitment, classification and promotions. It is for all these purposes that this Commission is being appointed and where so much power is already conceded to the Government by the clause, may I ask whether any more additional power is required, so that they may exercise a wider jurisdiction than what is intended to be allowed by my amendment. I feel, Sir, that I am making the last appeal and that I am making the most reasonable appeal . . ."

* The hon. the PRESIDENT :—"This is the last of the series of amendments."

Mr. G. HARISARVOTTAMA RAO :—"Yes, Sir, thank you for pointing that out to me. I hope that at least the last of the series will receive due consideration not only at the hands of the hon. the Revenue Member but also at the hands of other members, who are more responsible to the country than the hon. the Revenue Member, who is in a secure position, placed as he is."

[13th August 1929

Mr. C. S. Govindaraja Mudaliyar :—" I second the amendment, Sir."

* The hon. Mr. A. Y. G. Campbell :—" Mr. President, Sir, the arguments that I have advanced with reference to the earlier numbers in this series of amendments apply with equal force in this case also. As I have remarked with reference to the previous amendments, any such provision should be more properly included in the classification rules made by the Secretary of State."

The amendment was put to the House and lost.

Clause 11 was put, passed and added to the Bill.

Clause 12.

4-45 p.m. Mr. S. Satyamurti :—" I have come to the end of my tether to-day and this is the last attempt I wish to make to improve this Bill, if it is possible to do so. It has been claimed, Sir, on the part of Government that the Devolution Rules made by the Secretary of State under section 96-B (2) of the Government of India Act confer the power to regulate public services on the local Government. And our series of amendments has been opposed and opposed successfully on the plea that the Government cannot share that power to regulate the services with the Commission. Now, Sir, if that is the position of the Government I should like to know, Sir, why they want this clause which says that the Public Service Commissioners shall not discharge any of the functions under sections 9, 10 and 11 but shall observe the rules, if any, made by the local Government regarding the constitution of or recruitment to any provincial or subordinate service or special post under section 96-B (2) of the Government of India Act. And what are the functions laid down in sections 9, 10 and 11 ? In those sections, Sir, the local Government is to ask the advice of the Commission and they are to advise the Commission with regard to the classification of candidates, the conditions of admission and the syllabus of examination. Sir, is it suggested that with regard to the syllabus of examination, for example, the local Government is to make a rule that Greek shall be included and that Tamil shall not be included and the Commission is to carry out the orders of the local Government ? Take again clause 10 as regards the qualifications of candidates, for selection to appointments, and again clause 11 which governs promotion. It seems to me that the position of the Government is sound, that they have got unrestricted power to regulate public services without binding themselves to accept the advice of the Commission or even going out of the list submitted by the Commission for appointment either by competition or by selection. Then it seems to me, Sir, that this clause is wholly unnecessary. My second argument for its deletion is that it is undignified. I don't think, Sir, that the Public Services Commission should be statutorily and publicly told that with regard to its purposes, namely, the admission or recruitment to any provincial or subordinate service or a special post it shall observe the rules made by the Government. Thus it seems to me that the Commission is reduced once more in categorical terms to a position of absolute want of influence. In those circumstances, Sir, I would beg the House to vote against the retention of this clause in the Bill."

Mr. J. A. Saldanha :—" I rise to oppose this clause. It is in the first place superfluous, in the next it is inconsistent with the previous provisions of the Bill and in the third, as my hon. Friend, Mr. Satyamurti, observed, it

13th August 1929] [Mr. J. A. Saldanha]

reduces the Commission to a non-entity. As illustration of the first reason that I have advanced, let us take clause 9 and the subsequent clauses. They amply provide for the consultation between the local Government and the Commission and the latter giving its advice on all the matters comprised in the sections. Here once again in the Act, you proceed to lay down that the Commission shall obey the rules laid down by the local Government. I am at a loss to understand why at all such a section is necessary.

"Again, there is bound to be reduplication of work as a result of this clause. The Commission is asked to advise in the matter of syllabus and the Government, in pursuance of this section, will, I imagine, get hold of an expert to draft rules for the guidance of the Commission and the Commission is to submit itself to those rules. These draft rules, I have no doubt, will be framed by some over-worked official of the Secretariat and the Commission has to advise the Government in regard to the matters on which the Government had framed their rules. Not only will there be superfluity but there will also be much reduplication of work.

"Thirdly, Sir, I feel certain that the Advocate-General could not have drafted this clause for he should have noted the legal contradiction that it involved."

* Mr. ALLADI KRISHNASWAMI AYYAR :—"I am not the draftsman for Government. I have made that clear more than once in the House."

Mr. J. A. SALDANHA :—"It was however open to him, as a lawyer, to point out the contradiction that the clause implied.

"As for the dignity of this Commission, Sir, every section has added to the humiliation of its position and this has added the most. I hope this House will, without further consideration, throw out this clause as useless and wholly unnecessary."

* Mr. ALLADI KRISHNASWAMI AYYAR :—"Mr. President, there is some misimpression in regard to the scope of this clause. The object of this clause is not to clothe the local Government with any power under this enactment but merely to save its powers under section 96-B (2) of the Government of India Act. That is, if, for example, a rule is passed by the Secretary of State or by the local Government in pursuance of the power that is vested in the local Government under rule 3 of the Delegation Rules, the Public Services Commission is bound to respect those rules. That is a provision which is introduced by way of abundant caution, a feature of every legislation. If you find, for example, an enactment dealing with services and if you find another authority clothed with another power, it is much better that you introduce a provision to this effect that this shall not affect or that this shall be subject to the other powers which the local Government has under those rules. The object of clause 12, as I said, is not to clothe the local Government with any special powers by virtue of this legislation but merely to save the powers of the local Government under the section of the Government of India Act. This is without prejudice to the powers of the local Government and is subject to the powers of the local Government and the rules passed by the local Government under the Delegation Rules which rules are based under section 96-B (2) of the Government of India Act. That is quite elementary and that is the ordinary meaning of clause 12, and by no stretch of language can it be interpreted to mean that the local legislature is for the first time trying to clothe the local

Government with any special power. It is merely a saving clause which is intended to make it quite clear that these rules are to be subject to the rules of the local Government."

* The hon. the PRESIDENT :—" For clearing my own difficulty, may I ask the hon. the Advocate-General why a similar clause is not put in in regard to the disciplinary powers of the Commission."

* Mr. ALLADI KRISHNASWAMI AYYAR :—" It might have been put in, Sir. For example a general clause might have been introduced to the effect that this is without prejudice to the other provisions of the Government of India Act, or in some such way. But as it is apprehended by hon. Friends on the other side that it is intended to give further power to the local Government, as I read the clause it is clear that that it is not its import, that is not its meaning and that is not its legal effect."

* The hon. the PRESIDENT :—" I find that no power to make rules is delegated to the local Government regarding the disciplinary portion of the regulation of services."

The House then adjourned to meet again at 11 a.m. the next day.

R. V. KRISHNA AYYAR,
Secretary to the Legislative Council.
